

LEGAL SERVICES CORPORATION  
BOARD OF DIRECTORS

OPEN SESSION

Monday, September 18, 2000

12:50 p.m.

San Francisco Marriott  
55 Fourth Street  
San Francisco, California

BOARD MEMBERS PRESENT:

Douglas S. Eakeley, Chair  
Hulett H. Askew  
John T. Broderick, Jr.  
John N. Erlenborn  
Edna Fairbanks-Williams  
Maria Luisa Mercado  
Nancy H. Rogers (via telephone)  
Thomas F. Smegal, Jr.  
Ernestine Watlington  
F. William McCalpin

## STAFF AND PUBLIC PRESENT:

John McKay, President  
 Victor M. Fortuno, Vice President for Legal Affairs,  
     General Counsel and Corporate Secretary  
 Randi Youells, Vice President for Programs  
 Melville Miller, President, Legal Services of New Jersey  
 David Richardson, Comptroller and Treasurer  
 Edouard Quatrevaux, Inspector General  
 James Hogan, Vice President for Administration  
 Mauricio Vivero, Vice President for Government Relations  
 and Public Affairs

Bertrand Thomas, Program Counsel, Office of Compliance  
     and Enforcement  
 Danilo Cardona, Director, Office of Compliance and  
     Enforcement  
 Mattie C. Condray, Senior Assistant General Counsel,  
     Office of Legal Affairs  
 Laurie Tarantowicz, Counsel to the Inspector General  
 Christopher Sundseth, Budget Officer, Office of the  
     Comptroller  
 Ahn Tu, Program Counsel, Office of Program Performance  
 Leslie Russell, Director, Office of Information Technology  
 Michael Genz, Director, Office of Program Performance  
 Leonard Kolzur, Office of the Inspector General  
 John Hartingh, Special Assistant to the President

Ramon Arias, Executive Director,  
     Bay Area Legal Services  
 Jane Whittfield, Director of Development,  
     Bay Area Legal Services  
 Linda Perle, Senior Staff Attorney, CLASP  
 Don Saunders, Executive Director, NLADA  
 Elizabeth Arledge, Director of Communications, NLADA  
 Julie Clark, Vice President for Government  
     Relations, NLADA  
 John Ross, Chairman, SCLAID  
 Jose Padilla, Executive Director, California  
     Rural Legal Assistance

Lawrence Ozoa, Representative from Mayor Willie Brown's  
     Office

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1 P R O C E E D I N G S

2 CHAIR EAKELEY: Mr. Smegal has arrived. I think we  
3 can call the meeting to order and let the record also reflect  
4 that Nancy Harden Rogers is on the phone by speaker phone.  
5 Nancy, want to sign in again?

6 MS. HARDEN ROGERS: Hello. Greetings, everyone.

7 CHAIR EAKELEY: Greetings, Nancy. And welcome,  
8 everyone, to the Board of Directors meeting of the Legal  
9 Services Corporation. We have an agenda that was circulated  
10 in advance, then a revision to that agenda. I'd like to  
11 secure the approval of the agenda as revised and as further  
12 revised, to permit the first two of our scheduled speakers to  
13 speak, address us, before we get through items 2 through 4.  
14 In other words, go from Approval of the Agenda to welcoming  
15 Judy Johnson on behalf of the state bar of California.

16 MS. FAIRBANKS-WILLIAMS: I move.

17 MS. WATLINGTON: Second.

18 CHAIR EAKELEY: Those in favor?

19 (Vote taken.)

20 CHAIR EAKELEY: Opposed? The ayes have it. We now  
21 have a twice-revised agenda.

22 MS. MERCADO: Mr. Chairman, just for purposes of

1 clarification, we are going to deal with the finance  
2 committee issues in full board, here in the report of the  
3 finance committee, or is it beforehand?

4 CHAIR EAKELEY: Actually, that's right. That was  
5 the second and this is the third revision. The finance  
6 committee will meet as a whole board, which is item number 11  
7 on the agenda. So it's still item 11, but since the  
8 committee did not meet yesterday, we will be meeting as a  
9 committee of the whole.

10 First let me welcome Judy Johnson who is the  
11 dynamic new Executive Director of the State Bar of  
12 California. She has taken over the reins of the state bar at  
13 a time when it is rebuilding after a very difficult and  
14 challenging time to say the least. Ms. Johnson served as the  
15 Chief Trial Counsel for the bar for many years, and was also  
16 a member of the Board of Governors, and an attorney with the  
17 San Francisco District Attorney's Consumer Fraud Unit. Of  
18 note for our audience is that Ms. Johnson started out her  
19 career working at the Legal Aid Society of Alameda County,  
20 and has a strong commitment to access to justice.

21 It's always awkward for us to come to another city  
22 and for me to then say welcome to people who recognize this

1 as their home turf, but welcome to our board meeting in this  
2 wonderful part of the world.

3 MS. JOHNSON: Well, thank you very much, Mr.  
4 Eakeley, for inviting me to participate at least briefly in  
5 your meeting. I want to extend on behalf of the state bar  
6 and California's lawyers greetings to you, to President McKay  
7 and other members of your board.

8 Legal Services and the needs of low-income  
9 consumers and the legally underserved is an issue that's  
10 really close to my heart, and is a central mission of the  
11 California bar. So we're glad you are here in San Francisco.  
12 Hopefully, you'll get in a good amount of work addressing  
13 some of those concerns.

14 I've only been executive director of the state bar  
15 for about four months. I began officially on May 1. Our bar  
16 has been through some difficult times. We are in the process  
17 of rebuilding that as an institution. But even at our  
18 darkest and most trying moments, you all should know again  
19 that our commitment to legal services has been unwavering.

20 As you mentioned, I started out my legal career  
21 working for the Legal Aid Society of Alameda County. Many of  
22 my friends, both personal and professional colleagues, trace

1 our origins back to programs such as Legal Services. It was  
2 those types of programs that inspired us to go to law school  
3 and continue a commitment to public service. I can assure  
4 you that I, as a lawyer, and the lawyers of this state, want  
5 to work with you on continuing to improve access to justice  
6 and to our legal system.

7 I know that I'm sort of here, at least in terms of  
8 the agenda, in advance of Justice Lambden, and I know that  
9 some of his remarks will echo mine. I'll try to be brief and  
10 not steal his thunder or repeat things that he will  
11 undoubtedly say. In California we've done, we think, a  
12 pretty good job in our state planning efforts to date,  
13 culminating with the fact our Access to Justice Commission  
14 under Justice Lambden's stewardship has recently paid \$10  
15 million in a state appropriation to fund legal service  
16 agencies. Justice Lambden and the Commission deserve high  
17 praise indeed in spearheading that initiative and getting our  
18 state to recognize that it too must play a role in access to  
19 justice.

20 There's also a need to do as you have done, and  
21 that is to be forceful advocates for legal service funding at  
22 the national level. Obviously, we need to maintain, if not

1    increase, LSC funding. We are pleased that California and  
2    the lawyers of this state have been supportive of those  
3    efforts. Unfortunately, the \$10 million appropriation fills  
4    a gap, but not successfully. As you know, there was a  
5    decrease in LSC funding. There's also been a drop in IOLTA  
6    funding, perhaps at least in part due to our good economic  
7    times. So while the state funding is welcome, the need still  
8    remains and it is increasing. We're hopeful that under your  
9    continued leadership, we can keep and maintain federal  
10   funding, if not, again, seeking an increase that will be  
11   vital to the consumers of the nation.

12           California, as you all know, is a pretty large and  
13   diverse state. I think that the statistics are that if we  
14   were an independent nation, we would be number eight in the  
15   world as an economy. Our poverty population equals that of  
16   16 or 17 other states if the totals were combined. Los  
17   Angeles county alone would be the sixth or seventh largest  
18   state in the Union if it were an independent country. Some  
19   perhaps might advocate that, but we kind of like them and  
20   want to keep them a part of the Golden State. But California  
21   is an excellent example of our diversity. There are about  
22   200 discrete languages spoken in the Los Angeles unified



1 school district. We are the first state, I believe in the  
2 country, to have no true majority. Whatever your ethnicity  
3 in California, we are moving toward a time in which you will  
4 be one of a group of minority citizens.

5           And so with a state as large and as diverse as  
6 ours, the needs of our legal services consumers is also large  
7 and diverse. As you know, we've got about 100 legal services  
8 programs that are funded by the LSC trust fund programs,  
9 including the statewide and national support centers. As a  
10 result of this very large community and legal services  
11 program, statewide planning has been absolutely essential.  
12 The members of our Access Commission deserve high praise for  
13 not only doing a great job at state planning but also  
14 involving private members of the bar or members of our  
15 private bar in support of those planning efforts.

16           We have some impressive results including the  
17 collaborative advocacy efforts and regional planning that  
18 have involved both LSC and non-LSC funded programs.  
19 California is the home of Silicon Valley, and it is also true  
20 that we have been on the cutting edge of technology on behalf  
21 of the client communities of California. I understand that  
22 at this morning's press conference indeed there was a

1 technology award given. We are pleased to hear of that.  
2 Technology will increase the efficiency of all of us,  
3 particularly lawyers and those delivering services to the  
4 community.

5 We've also been fortunate to have as one of our  
6 champions our very able Chief Justice Ron George. This very  
7 weekend at the state bar's annual meeting, Justice George  
8 presented pro bono service awards to California lawyers and  
9 law firms who have been active in volunteering their time to  
10 assist the legally underserved. I've already mentioned the  
11 \$10 million state appropriation, and we hope in the future to  
12 be making the case to our legislature to renew that funding  
13 if not increase it in the coming years.

14 I'd like to single out one particular program that  
15 has been the beneficiary of planning. As you mentioned,  
16 actually I don't believe you did mention, you mentioned that  
17 I began my work as a lawyer working for the Legal Aid Society  
18 of Alameda County, but I like you also have served on a legal  
19 aid board. During the early 1980s, I served on the SFNLST  
20 Board here in San Francisco. And, in fact, I was chair of  
21 the executive director's search committee, which ultimately  
22 hired Ramon Arias, who as you know has done a fantastic job

1 in providing leadership to the new Bay Area Legal Aid. I  
2 think that frankly Ramon's selection is one of things that I  
3 view as a highlight of my career as a lawyer because it is  
4 really important that we pick the best and the brightest to  
5 work in our LSC programs.

6 Bay Area Legal Aid came together with the support  
7 of a lot of very talented people. And in fact, one of the  
8 recipients of an ABA pro bono award at this summer's meeting  
9 in New York was the Alameda County Bar Association, which was  
10 singled out for its work in helping the legal aid societies  
11 in the Bay Area work through the restructuring issues and  
12 form the Bay Area Legal Aid. Having come together in this  
13 reconfiguration, the work is still not done.

14 There are still many challenges that face all legal  
15 services programs as they struggle with the issue of  
16 reconfiguration. They're going to need expert advice and  
17 assistance and additional funding. Some of the restructuring  
18 will undoubtedly be disruptive, but the job and the  
19 challenge, of course, is that the restructuring must be done,  
20 but not in a way that reduces or jeopardizes the services to  
21 the client community.

22 I think that if there's any heart that we can take,

1 it is from the example of the Bay Area Legal Aid which seems  
2 to have managed to restructure with minimal disruptive  
3 impact. I think that that is welcome news both in terms of  
4 the need for efficiency and also the need to preserve the  
5 essential work of the organization which is serving the poor.

6 I just wanted to come and welcome you and wish you  
7 good luck in your work. And I thank you for this time that  
8 you have given me. I also want you to know that all of us in  
9 the legal profession watch very carefully what you do. We  
10 support the work of your agency in providing services to the  
11 poor. While the state bar as an entity is very limited in  
12 what it can do in terms of legislative advocacy on your  
13 behalf, there is a group of California lawyers, Californians  
14 for Legal Aid, an independent group that has been working,  
15 advocating continued federal funding. I'm sure that there  
16 are, I know that there are many lawyers who are members of  
17 that effort, and that they will stand ready to assist you in  
18 your continuing efforts.

19 I want to just close by acknowledging members of my  
20 staff who are very knowledgeable and dedicated. Mary Vivano,  
21 who is here with me, is so committed to legal services, even  
22 at the point where the state bar had no money to pay her

1 salary, Mary continued to work on behalf of Californians  
2 legally underserved on a pro bono basis. So when Mary Vivano  
3 talks about pro bono, she knows what she's talking about,  
4 having lived it. I think it's an example of her dedication,  
5 and also Judy Garlow who is here. Judy runs our legal  
6 services trust fund, which of course you know takes IOLTA  
7 monies and distributes it to the various entities. Without  
8 them, our state bar would not be as engaged in the fight for  
9 access to justice. I want to thank them for their continuing  
10 work, and frankly, to offer their services to you in whatever  
11 capacity that you feel they are needed and can serve you.

12 Thank you again for this opportunity to speak with  
13 you today.

14 CHAIR EAKELEY: Thank you very much for joining us.  
15 Good luck on your rebuilding efforts. We will probably take  
16 you up on your offer for Mary and Judy. We could especially  
17 have used some help with some of the California delegation as  
18 we wrestled with the appropriations process. But also  
19 obviously the engagement of the California bar is an  
20 essential if we are to build communities of justice in this  
21 state and across the nation. Thank you for coming here, and  
22 it was a pleasure to listen to your remarks. Are there any

1 questions or comments from the board?

2           Hearing none, then let me introduce Justice James  
3 Lambden who is chair of the California Access to Justice  
4 Commission. Justice Lambden has provided critical leadership  
5 in California's successful effort to seek and maintain \$10  
6 million in a state appropriation for legal services. He has  
7 also traveled across the state to speak to presiding judges,  
8 court administrators, and other judicial officers to  
9 encourage them to join in the efforts to increase access to  
10 justice. He has given freely of his time, and has helped  
11 solidify important links with the Chief Justice and other  
12 leaders of the bench and bar in California.

13           Justice Lambden has served as Associate Justice of  
14 the Court of Appeal since 1996. Prior to that time, he  
15 served as Superior Court Judge in Alameda County, and was in  
16 private practice in Oakland with the firm of Fitzgerald,  
17 Abbott & Beardsley.

18           Your Honor, welcome to our Board of Directors. I  
19 should introduce you also to Nancy Harden Rogers who is on  
20 the speaker phone from Ohio because she was unable to join us  
21 because of some hopefully modest and soon to go away health  
22 problems. But, welcome indeed.

1                   MS. HARDEN ROGERS: Thank you very much, Justice.

2   I'm looking forward to hearing your remarks.

3                   JUSTICE LAMBDEN: Thank you for coming by  
4   telephone. I will begin by apologizing for my tardy arrival.

5   I don't know if any of you know my colleague, Justice  
6   Anthony Klein. The last case on this morning's calendar was  
7   his, and he can be kind of a bulldog when it comes to a case.

8   So, even with the help of a ride, I was barely able to get  
9   here. Sadly, the first case on the afternoon calendar is  
10   mine.

11                   We have so much to talk about that I'm sorry to  
12   begin by suggesting that the time is limited. But I will try  
13   to move quickly, and I will touch on some things that I would  
14   invite you all to contact me about. You can find me on the  
15   worldwide web just by putting in my name and Court of Appeal  
16   and everything will be answered. And I will get back to you  
17   as quickly as I can if you have any questions.

18                   I'd like to welcome you to California on the first  
19   day of summer. People are always surprised, even those that  
20   live here, that September is summer and July is not.  
21   Remember that if you come back. I'm very pleased to be able  
22   to speak to you today because, in addition to my work in

1   Oakland as a private lawyer, that's where I began my career  
2   as a pro bono lawyer, and began working on legal service  
3   issues. Since I was fresh out of law school, I've heard  
4   about the good work that you have done, and you are an  
5   important force on the national level for all of the work  
6   that we're trying to do here in California. We thank you for  
7   your help, and we thank you for the opportunity to talk to  
8   you about our work, because I think we're entering a very  
9   exciting period right now of cooperation and rebirth.

10           Our ability to obtain the \$10 million that you've  
11   heard about goes hand in hand with the work you've been doing  
12   for years. And as I've said, I think it represents a new  
13   level of cooperation between the various entities that do  
14   this work, and also between the various levels of government.

15   Each level of government now is in a position to pay its  
16   share. And we will no longer look at the old paradigms of  
17   how these things are funded and how these problems are  
18   approached. California gives a good example of how that can  
19   be done.

20           Our success in getting the state funding, and I  
21   think you've probably already heard, I wasn't here for the  
22   whole speech, probably already heard that it was the first



1 time that California has ever funded legal services from the  
2 state budget. We're very proud of that fact. Our success in  
3 doing that, as well as our success in increasing the  
4 visibility of this problem among member of the judiciary, and  
5 they are sort of late to the table I have to admit as a  
6 judge, has been grounded in what you have done.  
7 Particularly, I want to thank a member of our Commission,  
8 Justice Earl Johnson, who is a colleague of mine on the Court  
9 of Appeal, and who has been the thorn in many sides for many  
10 years and has been very active in this area for many years.

11 I want to acknowledge the work that he did in the  
12 working group a few years ago that led directly, I think, to  
13 the formation of the Commission of which I am the chair. The  
14 report that they put together on that working group was a  
15 very thorough documentation of the need, and it was really  
16 irrefutable evidence that work needed to be done in this  
17 area, which still serves us.

18 I'll come back to the final point that Earl always  
19 comes back to, and that is sort of our latent theme these  
20 days is that "a lawyer really matters." No matter how many  
21 different efforts can be made with different levels of  
22 technology and different levels of self-help centers, there

1 are cases where a lawyer, where going to law school makes a  
2 difference. So there is in the back of our mind always the  
3 thought, planted there by Earl and his group so much earlier,  
4 that there is going to need to be funding for actual lawyers.

5

6 I say that as a preface because I'm going to go on  
7 to discuss a lot of things that we're doing here that don't  
8 involve lawyers. We are very proud of the Access to Justice  
9 Commission here because we have for the first time eliminated  
10 some of the external tensions that get in the way of our work  
11 by appointing a blue ribbon committee that cuts across all  
12 political boundaries and all ideological boundaries and all  
13 boundaries that might have given us trouble in the past.

14 We have members of the Chamber of Commerce, the  
15 Council of Churches, the League of Women Voters, appointments  
16 by the court, myself, I am an appointment from Chief Justice  
17 George's office. As I mentioned, Justice Johnson is on  
18 there. We have representatives from labor. We have  
19 representatives from all aspects of California life which has  
20 made our work easier. I think it makes it very clear how  
21 seriously our work is taken in California.

22 Again, I'd be remiss if I didn't mention Chief

1 Justice George. He came in about the same time I came on the  
2 court in 1996. I believe that his very first speech  
3 mentioned access issues with reference to economic issues.  
4 He then traveled around the state and visited every county.  
5 And in every county, I haven't checked in all 58, but I know  
6 in about 50 of them he began the discussion by asking about  
7 access issues and how the members of that community were  
8 being served by that particular court. The speech that he  
9 gave over the weekend that Judy mentioned, again, came back  
10 to access.

11 I don't believe that I've heard him speak in the  
12 last four years where he hasn't come back to that issue. He  
13 has been extremely important to our work and indefatigable in  
14 his support, and in his sustenance of what we've been trying  
15 to do.

16 We've put a lot of work also into increasing  
17 collaboration between the bar and the bench in the last few  
18 years. I think that the master plan for the upcoming couple  
19 of years that we have seen come out of the judicial council,  
20 which manages our courts, makes it very clear that we're  
21 going to see a lot more of that as well.

22 The reborn state bar has exhibited every intention

1 of being very cooperative with us in this regard. I'm very  
2 excited about working with Judy and the staff that she has  
3 put together. Good time to mention Mary, too, because I  
4 can't dial her at her office because I dialed her at her  
5 kitchen for two years, literally worked at her kitchen table  
6 and did an enormous amount of work on a shoestring and  
7 sustained the Commission throughout the two years that the  
8 state bar was, well, almost two years that the state bar was  
9 less able to do so.

10 I want to mention a couple of examples, just a  
11 couple of examples of what we've been able to do. Judy  
12 pointed out that the lawyers are now watching what happens at  
13 LSC. The judges are, too. The judges were late to the table  
14 in appreciating the problem of economic access, but now  
15 they're there. We have been invited to virtually every  
16 judicial training and education seminar in the last couple of  
17 years that has gone on in California.

18 California has the biggest judicial education  
19 system anywhere. We have never been refused access to any  
20 portion of it, and now are offered all of the resources of  
21 the judicial education and research organization in creating  
22 a curriculum to discuss with judges the problems presented by

1 access issues, ways to solve them, and ways to more  
2 efficiently manage their courtrooms, and ways to make all  
3 members of their staff sensitive to the issues that we're  
4 worried about.

5           We also have for the first time, not for the first  
6 time but for the first formal time, initiated a variety of  
7 contacts with the federal bench and bar. Our Commission  
8 recently was successful in drafting a resolution which was  
9 presented first to the lawyers in the central district I  
10 believe but is now being circulated throughout the districts  
11 of California, which calls for the examination of access  
12 issues. Ultimately, it calls for the examination of the  
13 issue of how to provide sufficient funding for legal  
14 representation in certain cases.

15           We expect that that will be a word spread  
16 throughout the federal bench which has been separated from  
17 our efforts for some time, and will result in greater  
18 representation in those areas.

19           I have to hit a bunch of points real quickly  
20 because I don't have the need to take your time now. I can  
21 send you information on all the various things that we're  
22 doing. I should say that I can ask Mary to send you

1 information on a lot of things.

2 First would be our collaborative efforts with the  
3 judiciary and how we are melding the work of the Judicial  
4 Counsel Commission and the bar. I'm sure it's been described  
5 to you. The Commission is funded by the bar but takes a lot  
6 of information and it gets a lot of help from the AOC, the  
7 Administrative Office of the Courts. In a sense, it's in  
8 between the two, and provides an important liaison effort. I  
9 can describe that in detail for you, and tell you how we've  
10 been successful in that area when we have time later, and in  
11 more detail.

12 We're also cognizant of the possibilities of  
13 improving collaboration between LSC and non-LSC type  
14 programs. We have a new committee that's looking for chinks  
15 in the armor, places that no group may yet be looking at. We  
16 are doing community outreach work, and we're having regional  
17 programs to identify problems like that as well. Again, I  
18 can tell you more about that later.

19 We're very excited about innovative uses of  
20 technology. We have a technology committee that tells me  
21 things I don't really understand, but I'm excited about  
22 what's possible on the screen with technology these days. We

1 expect that to be something that you'll all be hearing about  
2 pretty soon.

3           We've been mindful of the necessity of providing  
4 assistance to unrepresented litigants in all the various ways  
5 that they present themselves to the court, and we can supply  
6 you with a lot of good ideas from California. Actually, I  
7 think we're the seventh biggest economy in the world, 58  
8 counties puts us, I don't know where that math would put out,  
9 but the number of ideas and permutations of ideas for dealing  
10 with these problems that could come out of that many counties  
11 in various locations is truly astonishing. We're working on  
12 a clearinghouse that would give us a handle on ideas that we  
13 can spread around as well.

14           It probably goes without saying, but I must mention  
15 the huge problem that has probably helped us as much as  
16 anything in bringing it to the attention of the judges, if no  
17 one else, that California has in pro per litigants. In 1998,  
18 and that was obviously two years ago, there were 162,000 new  
19 family law cases, and in over half of those, one party was  
20 unrepresented. I'm sure that that number is larger now. In  
21 63 percent of child support cases back in 1998, both parties  
22 were unrepresented.

1           Once again, I'm sure that number has only grown  
2   larger or worse depending on your point of view. This has  
3   created a lot of problems and a lot of awareness among the  
4   members of the bench, including those who are not family law  
5   practitioners, to the problems presented by unrepresented  
6   litigants in court.

7           Now, since this has come on the radar screen, there  
8   is some family law self-help in every county in California,  
9   and new self-help centers are being created virtually as we  
10   speak in counties where they are needed. One example will  
11   suffice to tell you how badly they are needed. In the first  
12   month of its operation in Los Angeles, the family law  
13   self-help center had 1,800 cases come through the door.  
14   Those numbers are replicated in different permutations around  
15   the state. It's just as bad in a county like Plumas where  
16   you have 14 lawyers, if you have 14 unrepresented litigants  
17   as well.

18           The Commission has proposed to the judicial  
19   council, and the proposal has been accepted, to create a task  
20   force on unrepresented litigants, which is being put into  
21   place as we speak. Appointments will be made, and over the  
22   next couple of years reports will be prepared, proposals made



1 along the lines of the other task forces that have been  
2 undertaken in California, which you've no doubt seen the  
3 results from those.

4 I'll come back to my final Earl Johnson point. What  
5 we keep coming back to is that no matter how many electronic  
6 kiosks we build where people can punch buttons and find out  
7 what courtroom to go to or self-help centers that you set up,  
8 it still makes a difference to go to law school. I imagine  
9 that's a relief to those of you who spent the time in law  
10 school, but we still need to be cognizant of the fact that  
11 many people are going to end up getting actual representation  
12 by a living, breathing lawyer. It can't be a robot lawyer,  
13 notwithstanding the technological advances that we've been  
14 talking about.

15 It is critical from our point of view that the full  
16 range of services that have been pioneered by your  
17 organization remain an option and remain discussed at every  
18 meeting of these sorts of problems, so that people won't be  
19 lulled into the thought that maybe the electronic kiosk will  
20 solve these problems. We know from the preliminary work we  
21 have done in evaluating results that it's quite possible that  
22 someone punches the buttons, finds the courtroom, goes up and

1     loses, even though they had a good case.

2                 We are always looking for the ability to actually  
3     have lawyers, and always looking for the ability to have the  
4     funding for those lawyers, here in California.  It's a large  
5     number.  We have \$10 million which works out to a few cents  
6     per poor person litigant, and we hope to redouble our efforts  
7     each year, and with crossed fingers that the economy will  
8     stay good, we will have more money for that in California.  
9     In that regard we look forward to working with you as well.

10                Thank you for the opportunity to speak to you this  
11     morning.  I really appreciate it.

12                CHAIR EAKELEY:  Thank you very much, Justice  
13     Lambden.  Justice Johnson is a friend and counselor, indeed  
14     first biographer of this Corporation, but also someone who  
15     acquainted us early on about the great work that the Equal  
16     Justice Commission in California is accomplishing.  We hold  
17     your efforts up as a national model, and we look forward, as  
18     do you, to a continued collaboration in this endeavor.  We  
19     share your views also with the fundamental necessity to be  
20     able to provide clients with the full range of legal services  
21     as well as the additional access that technology can afford.  
22     Ten million dollars for an initial appropriation is not at

1 all bad. It's a wonderful first next step.

2 Thank you very much for joining us. Are there any  
3 comments or questions that any of the board members have?  
4 Hearing none, then may I present you and Ms. Johnson with a  
5 modest memento. We can only do things modestly with the  
6 budget we've got, but a modest memento of our visit and your  
7 remarks.

8 JUSTICE LAMBDEN: Thank you.

9 CHAIR EAKELEY: Next, it's my pleasure to call to  
10 the stand Lawrence Ozoa from Mayor Willie Brown's office to  
11 present a declaration, a proclamation, declaring today,  
12 September 18, to be Legal Services Day in San Francisco.

13 MR. OZOA: Thank you for saying my last name  
14 correctly.

15 Ladies and Gentlemen of the Board, thank you for  
16 having us here this afternoon. I've been charged with the  
17 task of welcoming you to our city. This afternoon I'd like  
18 to present to you a proclamation on behalf of the city and  
19 county and our Honorable Mayor, Willie L. Brown, Jr.

20 The proclamation reads: Whereas the city and  
21 county of San Francisco is pleased to recognize and honor the  
22 Legal Services Corporation for providing more than 25 years

1 of legal service to the less fortunate; and whereas, Legal  
2 Services Corporation was created by the United States  
3 Congress in 1974 to provide equal access and representation  
4 in the justice system for low income individuals; and  
5 whereas, the Legal Services Corporation funds programs in  
6 every county and state in the United States, including the  
7 Bay Area Legal Aid, California Indian Legal Services, Inc.,  
8 and California Rural Legal Assistance, Inc.; and whereas, the  
9 attorneys, paralegals, board of directors, and other members  
10 of Legal Services Corporation for diligently working to  
11 uphold America's commitment to equality and justice for all.

12 Now, therefore, be it resolved, that I, Lawrence  
13 Ozoa, on behalf of Willie L. Brown, Jr., Mayor of the city  
14 and county of San Francisco, commend Legal Services  
15 Corporation for its outstanding services, and do hereby  
16 proclaim September 18, 2000, forever, as Legal Services Day  
17 in San Francisco.

18 CHAIR EAKELEY: Next, I just want to recognize, and  
19 since he's scribbling furiously, invite him if he'd like to  
20 speak, Ramon Arias, who is the Chairman of the National Legal  
21 Aid and Defender Association, the Executive Director of Bay  
22 Area Legal Aid and co-host to a wonderful celebrando una

1   tardeada yesterday. Just want to say hello, Ramon. You  
2   don't have to say anything.

3               MR. ARIAS: Hello.

4               CHAIR EAKELEY: Jose Padilla was here a little  
5   while ago. He's still here.

6               MR. PADILLA: I'm recovering from a long day in  
7   court.

8               CHAIR EAKELEY: On behalf of the board, let me  
9   thank you both for a wonderful afternoon of convivencia and  
10  also for the very special honor that you bestowed upon me  
11  yesterday. It's a pleasure to be here, and a pleasure to be  
12  here today with both of you and your staffs and Mary and your  
13  co-awardee. I'll get to Julie later.

14              MR. PADILLA: We had a very special part in that  
15  celebration, the fact we could share that with you. The fact  
16  that you folks made enough time at a congregated event, it  
17  was really greatly appreciated by the board and by the folks  
18  who were there, by the clients that were there. We really do  
19  appreciate that special presence you brought.

20              CHAIR EAKELEY: It was very special, and a very  
21  special person sitting right in front of you is one. Julie  
22  Clark, who is also the co-awardee of, and significant object

1 of respect and affection, Julie Clark from the NLADA.

2 Sitting next to Julie is Johnathan Ross who is the new chair  
3 of the ABA standing committee on Legal Aid and Indigent  
4 Defendants.

5 John, I just want to welcome you. I don't know  
6 whether you have any remarks, prepared or otherwise, but it's  
7 great to have you with us.

8 MR. ROSS: Doug, thank you. I have no prepared  
9 remarks. I'm just happy to be back here with this board. My  
10 first LSC meeting was in 1985 with the then board, and  
11 there's a substantial difference. It's nice to be here.

12 CHAIR EAKELEY: As I seem to recall, John, Tom  
13 Smegal was on that board, was he not?

14 MR. ROSS: I didn't say it was 100 percent better.

15 CHAIR EAKELEY: My close friend and collaborator,  
16 Melville B. Miller, Jr., Legal Services of New Jersey  
17 President, is all the way out here from New Jersey.  
18 Obviously, well, not obviously, but Don Saunders from NLADA  
19 and Linda Perle from the Center for Law and Social Policy are  
20 also here. Stephanie Choy, the Public Interest  
21 Clearinghouse, is here. Again, thank you for joining us.

22 I'm probably omitting several other key people, but

1 forgive me for that omission. I think that concludes the  
2 public speakers part of the agenda, having given the  
3 opportunity to several of those who might have availed  
4 themselves of that slot to say something. Let's move back to  
5 item 2 of the thrice-revised agenda, approval of minutes of  
6 the Board's meeting of June 26, 2000. Are there any  
7 additions or corrections to be made to those minutes?  
8 Hearing none, is there a motion to approve?

9 MR. MCCALPIN: So moved.

10 CHAIR EAKELEY: Second?

11 MR. ERLNBORN: Second.

12 CHAIR EAKELEY: All those in favor?

13 (Vote taken.)

14 Opposed?

15 (Vote taken.)

16 The minutes are approved.

17 Also circulated with your board materials were  
18 minutes of the executive session of the board's meeting of  
19 June 26, 2000. Again, any corrections or additions to be  
20 made to those minutes? If none, is there a motion to approve  
21 them?

22 MR. MCCALPIN: So moved.

1 MS. FAIRBANKS-WILLIAMS: Second.

2 CHAIR EAKELEY: All those in favor?

3 (Vote taken.)

4 Opposed?

5 (Vote taken.)

6 The ayes have it then. The minutes of the Executive  
7 Session are approved. Next, we have the approval of the  
8 minutes of the board's telephonic meeting of August 1, 2000,  
9 circulated in advance. Again, any revisions or corrections  
10 or additions to be made? If none, is there a motion to  
11 approve?

12 MR. ERLNBORN: So moved.

13 CHAIR EAKELEY: Second?

14 MS. FAIRBANKS-WILLIAMS: Second.

15 CHAIR EAKELEY: All those in favor?

16 (Vote taken.)

17 Those opposed?

18 (Vote taken.)

19 The ayes have it, and the minutes are approved.

20 That brings us to item 6, Chairman's report.

21 Let me start, we're sort of an awkward order here,  
22 but let me start by explaining why we're here notwithstanding



1 the fact that Mayor Brown called for a boycott of the  
2 Marriott Hotel on Labor Day of this year. Obviously, we have  
3 to book hotel accommodations months in advance. Those  
4 bookings normally, as here, require a non-refundable deposit.

5 We only learned about the articulation of action by the  
6 mayor after Labor Day.

7 We have been since then in contact with the union,  
8 with the mayor's office, with the hotel and with other  
9 potential accommodations in the area to see what we could do  
10 about the situation. We concluded that there was nothing we  
11 could do. In checking with legal services providers and  
12 others, and indeed ultimately, with union representatives, we  
13 concluded that our only choice was to proceed here.

14 I apologize to the members of Local 2 for the  
15 appearance created by the meeting. Obviously, we would not  
16 have come here had we known in advance. But we are here, and  
17 we appreciate their understanding of our situation.  
18 Obviously, we don't intend to return to this hotel until that  
19 situation is resolved and the boycott is lifted. Let me just  
20 start with those remarks for the record, as I had told the  
21 union I would undertake to produce at this meeting.

22 You all know that I'm not taking the 5:30 p.m.

1 "red-eye" tonight so just sit back. We're not going to race  
2 through the agenda quite as rapidly as some might have hoped.

3 I already thanked CRLA and Bay Area Legal Aid for their  
4 hospitality yesterday. It just was a very, very special day  
5 for lots of reasons.

6 We've gone through the minutes of the board's  
7 telephonic meeting of August 1. That meeting, of course,  
8 approved the extension of John McKay's contract as President  
9 through September of next year. What is not noted in those  
10 telephonic minutes, but which I should note for the record,  
11 is the fact that as of Labor Day, John has become the longest  
12 serving President of the Corporation in its history. I want  
13 to congratulate John for that service, commitment, and  
14 continued promise of future collaboration.

15 Also, as I said at breakfast, this marks our last  
16 meeting of our seventh year as a board. When we convene in  
17 Washington in November, we will be commencing our eighth year  
18 of service as a board, presumably our last year of service as  
19 a board. We have a very ambitious program sketched out for  
20 us for the next year which includes regulatory review,  
21 seeking increased appropriations, a preliminary evaluation of  
22 some of the restrictions, and with a report back to the

1 Congress as to the implications of those restrictions for our  
2 ability to represent our clients, the continued  
3 implementation of our strategic direction through the  
4 development of performance measures that help assess access  
5 and quality of justice being offered to our clients,  
6 continued initiatives in the state planning and technology  
7 areas, a legal needs survey if we get the appropriation for  
8 it from the Congress, diversity initiatives, and hopefully,  
9 the groundwork for the authorization in our lifetime, if not  
10 during our tenure on the board.

11           This will take a great deal of work. It has  
12 already required Herculean efforts of John McKay and his  
13 management team. Anyone who sat through the provisions  
14 committee yesterday and watched with great awe and admiration  
15 as Randi Youells ticked off a number of the initiatives on  
16 her plate could not help but be gratified, but also terribly  
17 impressed by just how much we're asking management to do with  
18 so little resources. I look forward to one further year with  
19 a wonderful board and a great management and ultimately the  
20 grantees and their clients that make it so worthwhile.

21           I'm done. Now, we'll go to members' reports. If  
22 we could start with Ernestine Watlington.

1                   MS. WATLINGTON: I just want to report that  
2   Pennsylvania, one of their regions, is having a task force  
3   client meeting and also adding to their state planning, and I  
4   hope to be able to talk with the clients there to help get  
5   information on the plan conference that we're having later to  
6   get some input from that.

7                   CHAIR EAKELEY: Edna?

8                   MS. FAIRBANKS-WILLIAMS: Our legal needs study is  
9   progressing slowly. I'm not happy, but it's happening.  
10   We've done the telephone survey, and we're now doing the  
11   survey of all the organizations and OEO offices and elderly  
12   offices. We have yet to do the courts, but we're working at  
13   it.

14                  CHAIR EAKELEY: John Erlenborn.

15                  MR. ERLENBORN: Nothing to report, Mr. Chairman.

16                  CHAIR EAKELEY: I was incredibly remiss in my  
17   Chairman's Report, so I'm reseizing the mike for a moment to  
18   welcome back John Broderick. Anyway, John, your turn.

19                  MR. BRODERICK: I can't remember why I've been  
20   gone, but it's nice to be back. I don't have much to say  
21   other than it's nice to be back. Just to acknowledge, as I  
22   did this morning but I want to do it at the board meeting,

1    how proud we are in New Hampshire that John Ross has been  
2    selected to head SCLAID. They could not have picked a more  
3    distinguished lawyer or someone more committed to legal  
4    services than John Ross. I think this board will find that  
5    he's a great asset to us as we go through the last year of  
6    our leadership in the Legal Services Corporation. I'm  
7    delighted he's here.

8                   CHAIR EAKELEY: Bucky Askew.

9                   MR. ASKEW: In August I traveled with our president  
10   and some staff members to the Legal Aid Society of Hawaii for  
11   the announcement of the model technology grant to that  
12   program, \$460,000 grant. It was a very exciting event and a  
13   very impressive program that we visited. And that was a  
14   very, what they're doing there with that money I think will  
15   be something that can be replicated and learned from all  
16   around the country.

17                   Doug's remarks reminded me, we're at the last  
18   meeting of our seventh year. I think at the first meeting of  
19   our first year, both Ramon Arias and Miller spoke to us and  
20   offered us a challenge and some inspiration as board members  
21   for what we should do, and we've been through a lot since  
22   then. I hope we've lived up to the challenge that he

1 offered, but it was remarks made that day that I don't think  
2 I'll ever forget. We're happy to be back and finish our  
3 seventh year where we started our first year.

4 CHAIR EAKELEY: I don't think Ramon had quite the  
5 challenges in mind that we ultimately came to confront with  
6 104.

7 MR. ASKEW: I called him a rising star back then.  
8 I think he's finally made it into the galaxy.

9 CHAIR EAKELEY: Maria Luisa.

10 MS. MERCADO: Yes, Mr. Chairman. The thing that  
11 I'd like to report is that in August, I along with our other  
12 board director, Bill McCalpin, went to Canada, to Quebec, to  
13 represent us with Legal Aid, the Legal Services Programs of  
14 Canada. It was truly a wonderful experience from a variety  
15 of different angles because it is a French province.  
16 Apparently, one of the factors that they have in every  
17 meeting is that they automatically take a booth with  
18 interpreters and translators for everybody so that there's a  
19 constant communication in French and English in all these  
20 sessions. I thought that I might figure out who their  
21 designers were to use those in the southwest in particular in  
22 our Spanish-English versions of meetings.

1           In particular, what I thought was really key was  
2   just the commitment of the people that were there to  
3   providing access to justice both in the civil and criminal  
4   arena. There was a great dialogue between the programs, and  
5   of course, like us, always the issue of how can we get more  
6   funding to represent the huge number of people that need our  
7   services, but we don't have the amount of lawyers and  
8   resources to provide.

9           Of course, their system is somewhat different in  
10   that they have a huge number of private bar involvement, much  
11   more so than we do, that also provide the legal services to  
12   the community. Of course, the other key thing that all of  
13   you should know is that Bill McCalpin has been going to these  
14   meetings, I think since 1984. He has been adopted as one of  
15   their own. They highly respect his ideas and his input into  
16   the different discussions that are going on. I think we've  
17   been very aptly represented in those meetings. It was really  
18   a pleasure to be there. And of course, they also wanted us  
19   to formally invite them to come to a meeting to observe with  
20   us. We had asked them, sort of ad hoc on our own, that we  
21   would invite them to our November meeting in Washington,  
22   D.C., and they could send a representative or whatever there.

1           CHAIR EAKELEY: Thank you. Tom Smegal.

2           MR. SMEGAL: Nothing to report.

3           CHAIR EAKELEY: Bill McCalpin.

4           MR. MCCALPIN: Let me elaborate just a little bit  
5 on the report that Maria has given about the Association of  
6 Legal Aid Plans annual meeting of Canada, which was held in  
7 Quebec City three weeks ago. I subscribe to everything that  
8 Maria said, but there were, I think, three or four  
9 developments at that meeting which I think are worth  
10 repeating here and elaborating on to some extent.

11           First of all, at least two of the programs, and  
12 their programs are all province-wide, at least two, British  
13 Columbia and Ontario, have embarked on very substantial  
14 quality assurance programs. They've gone into it in very  
15 great detail. I have sent materials on this to our president  
16 in Washington. Interestingly enough, in the British Columbia  
17 materials, I'm not quite sure how it works out, but there is  
18 a page of their iteration of what their different programs do  
19 which I thought might be of very great assistance to us in  
20 devising performance management indicators for our revised  
21 CSR report. I mentioned that to Randi Youells, and she is  
22 looking forward to getting ahold of that when she gets to



1 Washington.

2 I suppose that maybe some of our programs are  
3 looking at quality assurance and how to increase it, but I  
4 don't know that we at our level have gotten very far into  
5 programs to improve the quality of performance around the  
6 country. I thought it was important to note that at least  
7 two rather large programs in Canada are doing it, and we may  
8 well have something to learn from that.

9 In the course of my remarks, we always get a slot  
10 on their program, I mentioned something, you will understand  
11 this had to be very rudimentary coming from me, about our  
12 technology programs. The technology director for the British  
13 Columbia program came up to me afterwards and said that he  
14 would be interested in seeing something about the development  
15 of our programs. So I gave him the names of Mike Genz and  
16 Leslie Russell and the addresses in the hope that he would  
17 contact them and that we could exchange views. They were  
18 particularly interested in how we might deliver legal  
19 services by technology programs. That was one thing.

20 Second thing was, let me explain. The Canadian  
21 Ministry of Justice, which is their counterpart to our  
22 Department of Justice, has in it a research, a R&D type of

1 element, and one member of that group named Ab Currie spends  
2 almost all of his time doing research on legal aid, civil and  
3 criminal. He reported to the meeting that the fourth  
4 biennial international legal aid conference will be held in  
5 Australia in June 2001. That conference is by invitation  
6 only.

7           It's my understanding that the conference in  
8 Vancouver in 1999 was attended by two who were then former  
9 members of the staff of the Legal Services Corporation, in  
10 addition to others including Alan Houseman and Earl Johnson  
11 whom the judge mentioned. I went over to Ab Currie  
12 afterwards and gave him your name, Doug, and yours, John,  
13 with the request that he forward them to Alan Patterson who  
14 was sort of the guiding light of this international  
15 conference with the suggestion to him that it would be  
16 inappropriate for the United States representatives not to  
17 include somebody from the Legal Services Corporation in a  
18 meeting of that magnitude.

19           Ab Currie also reported on a conference that the  
20 Canadian Ministry had put together in March of this year in  
21 Ottawa on access to justice. It was broadly representative  
22 of the bar, the bench, police, social workers, citizens of

1 all variety in life, Aborigines as they call their Native  
2 Americans, and others. Contrary to the expectation of those  
3 who had put the meeting together, he said that there was an  
4 almost immediate and unanimous conclusion that the system of  
5 justice in Canada was not fulfilling its proper role.

6 I have here a preliminary report by Ab Currie on  
7 that conference. This particular report is from the  
8 perspective of the criminal, although there is substantial  
9 material in it about the civil as well. We were told at the  
10 meeting that the final report of that session in March was at  
11 the printer as we met three weeks ago. I asked that copies  
12 be sent to us. I assume they will be when they are  
13 forthcoming.

14 Currie went on to decry what he considered to be  
15 the lack of research, of literature, and of deep thought, on  
16 the role of legal aid in access to justice. He thought the  
17 intellectual community, the whole community, ought to be  
18 spending much more time thinking about researching and  
19 writing about the role of legal aid in access to justice.  
20 Obviously, that's his particular niche in the Ministry of  
21 Justice in Ottawa.

22 It's a very challenging, it seems to me, sort of

1 thought. It is the sort of thing that this international  
2 biennial conference is devoted to because it's quite heavy in  
3 academics and people who think and write about legal aid and  
4 its role in access to justice. I think it's extremely  
5 important that we have some representation at that meeting,  
6 although it will be months too late for the Olympics at the  
7 same time.

8               Two last quick things. As Maria noted, Sid London,  
9 who is the now Chair of the Board and acting Director of the  
10 Ontario program, came up to us in an intermission and said  
11 that he thought it was fine that we attended the Canadian  
12 meetings, but that he thought it would be well for some  
13 Canadians to attend our meetings. I said, "We're open  
14 meetings. Anybody can come." Well, he said he thought there  
15 ought to be a little more formal invitation to them to  
16 attend. As I characterize what were probably my valedictory  
17 remarks to that group, I issued an oral invitation in the  
18 name of this board to anybody to come. As Maria said, London  
19 indicated that he might well come to our November meeting if  
20 given appropriate notice and so on. I think that we might  
21 extend the same courtesy to the other provincial directors.

22               CHAIR EAKELEY: I'm looking at our board secretary

1     who will help us follow up on that.

2                 MR. MCCALPIN:   Finally, a semi-social note.   When I  
3     first heard about the difficulties with this hotel, and the  
4     question of whether we would be here or whether we would even  
5     be in San Francisco at all, I called Victor and said,  
6     "Victor, I need to know because a local resident has  
7     indicated his intention to come and I need to tell him."  
8     There's only one other, I said "he," so it wasn't Doreen, it  
9     was another local resident who expressed an interest to come.

10    He's not here because tomorrow he's giving a reception in  
11    recognition of his reelection to the Board of Governors of  
12    the Missouri Bar.   And later on that day, he will be elected  
13    Vice President of the Missouri Bar, which means that two  
14    years from now he will become the first sitting judge ever to  
15    have been president of the Missouri Bar.   I refer of course  
16    to Rick Titleman.

17                CHAIR EAKELEY:   Bill, I think being your usual  
18    modest self, you've also held back on a recent appointment  
19    that you've received.

20                MR. MCCALPIN:    I?

21                CHAIR EAKELEY:   Is there a Missouri Access to  
22    Justice Commission?

1                   MR. MCCALPIN: Oh, I think you mentioned that at  
2 the last meeting.

3                   CHAIR EAKELEY: I know. Nancy Rogers.

4                   MS. ROGERS: No report.

5                   CHAIR EAKELEY: Okay. Next we move to the  
6 Inspector General's report. Greetings, Ed. Greetings,  
7 Laurie.

8                   MR. QUATREVAUX: Mr. Chair, members of the board,  
9 thank you. Since we last met, the Office of Inspector  
10 General issued a report on the assessment of the 1999 case  
11 statistical data. The report was issued on time to Congress,  
12 and it accomplished its primary objective to provide a  
13 conclusion on the accuracy of the 1999 case statistical data  
14 on a national basis. The assessment found and reported a 13  
15 percent error rate which, although an improvement over prior  
16 years at least in our work, it is still a very high error  
17 rate for a standard report issued from case management  
18 systems. LSC needs obviously to reduce this error.  
19 Therefore, the OIG will continue to periodically conduct  
20 activities in this area.

21                   As the assessment plan became known last January,  
22 some expressed what were styled as "serious concerns" about

1 the ability to complete this work, making references to  
2 "substantial obstacles and potential unfortunate  
3 complications." Nevertheless, the OIG succeeded. It did so  
4 in my opinion due to the superb project design and project  
5 management which I recently recognized with the Inspector  
6 General's annual award.

7           Sharing that award were David Maddox, who is  
8 responsible for the data collection systems development and  
9 operations, Dr. Eric Kirkland for the experimental design and  
10 analysis of the results, Lynn Kousher and Mike Griffith for  
11 the planning of the on-site activities, and last, Laurie  
12 Tarantowicz for legal support and analysis. They all did a  
13 good job in playing architect to this quorum experiment, and  
14 in executing the project.

15           It's also my pleasure to announce to you today the  
16 promotion of Laurie Tarantowicz to Assistant Inspector  
17 General for Legal Review. Her work on subpoenas has been  
18 superb and instrumental to our success.

19           We have been requested by the Executive Council on  
20 Integrity and Efficiency to conduct a peer review on the  
21 Office of Inspector General at the Equal Employment  
22 Opportunity Commission. That work will take place early next

1 year. We ourselves will be subjected to a peer review in  
2 fiscal year 2001. In October we will be sending you our  
3 annual updates of the OIG strategic plan, and our performance  
4 plan for the fiscal year 2001. Our 2001 activities include  
5 an audit of contracting. We notified management last week.

6 Last, I issued subpoenas recently when Georgia  
7 grantees refused OIG access to street addresses and other  
8 data. An enforcement petition will be filed very soon in  
9 U.S. District Court. Various actions with which you are  
10 familiar led me recently to send a letter to Congress  
11 recommending certain statutory language which, if enacted,  
12 should end refusals to provide access to information. The  
13 access issue is a long-standing one, and it really does need  
14 to be resolved.

15 Moreover, I believe the taxpayers who fund legal  
16 services for the poor deserve effective oversight, deserve to  
17 know that legal services are provided efficiently and  
18 effectively with their taxes, and deserve to know that those  
19 served meet eligibility requirements. That being so, the OIG  
20 will not accept anything less than complete access to  
21 information. If the OIG is refused access, then we will use  
22 our statutory authority and the resources of the Justice



1 Department to obtain compliance.

2 I have some additional comments on this particular  
3 matter that I plan to make in closed session, but this  
4 concludes my public report, Mr. Chairman.

5 CHAIR EAKELEY: Let me commend the OIG for  
6 completion of the CSR audit on time and also congratulate  
7 David Maddox, Eric Kirkland, Lynn Kousher, Mike Griffith, and  
8 Laurie Tarantowicz for their receipt of your OIG award.  
9 Laurie, congratulations on your promotion as well.

10 I'm tempted to rise to the bait to inquire why you  
11 feel that effective oversight requires access to  
12 attorney/client privileged communications and confidences of  
13 clients which, if granted, would chill those clients' right,  
14 or exercise of their right, to seek an attorney, potentially  
15 at least. I know we've been through this before. I don't  
16 intend to engage in the argument, but if I didn't rise to the  
17 bait, somebody else would in less tempered language, I'm  
18 sure, like a young man to my right over here on the far  
19 corner.

20 MR. QUATREVAUX: Let me say this, that with respect  
21 to the current language in the appropriations statute, which  
22 does carve out a preserve for the attorney/client privilege,

1     that phrase was added at the suggestion of my office. It was  
2     not there before.

3             CHAIR EAKELEY: Ed, just pause there for a moment.

4     Your office spent a lot of time, part of the program design  
5     for the CSR audits was in recognition of the importance to  
6     grantees and to this board in preserving to the extent  
7     necessary and possible attorney/client confidences and the  
8     identities of the clients. We spent a great deal of time on  
9     that part of the design, as I recall.

10            MR. QUATREVAUX: We did spend a great deal of time  
11     on the design. I wouldn't quite have given the reasons that  
12     way, but that's fine. We did indeed.

13            Let me return to 1996. We inserted that provision  
14     because we at that time really didn't think it would be  
15     necessary ever to see privileged materials. My view on that  
16     has changed, and it has been aided mightily by certain  
17     representations, by the suggestion that a street address is  
18     privileged information. I just think it's necessary to have  
19     it resolved where the money comes from. And that comes from  
20     the Hill. We cannot operate efficiently and effectively if  
21     every time we need a piece of information we have to go to  
22     court to get it.

1           CHAIR EAKELEY: I don't think any of us could.

2           MR. QUATREVAUX: I don't think the Corporation's  
3 management can effectively oversee this program if it has to  
4 do the same thing or if it is denied information.

5           CHAIR EAKELEY: But I haven't seen management or  
6 your office have to run to the court any time a piece of  
7 information has been needed to inquire into grantees' use of  
8 funds among the 270 or so grantees serving every county in  
9 this United States.

10          MR. QUATREVAUX: No, of course not everyone. We  
11 were denied information by Legal Aid Bureau of Maryland in  
12 1999, and despite our construct and the extra quarter million  
13 dollars we spent to accommodate their views, their state's  
14 views, in 1999 in the assessment, they nevertheless refused  
15 to comply.

16          Legal Services of New York has an appeal pending  
17 now. Programs in Georgia refuse to provide the data we  
18 requested. I see a pattern here. I just don't think that's  
19 a pattern that is a particularly good one for the Corporation  
20 and certainly not for the OIG.

21          CHAIR EAKELEY: Are there any questions for the IG?

22          MR. ERLNBORN: I'm glad that our chairman raised

1 with you the construction that you put together to protect  
2 the interests of clients in the CSR study. I compliment you  
3 on that. I think you recognize that there was a problem of  
4 getting access to information if the rights of the clients  
5 were not in some way protected.

6 I remember Bill McCalpin and I meeting with you,  
7 getting a briefing on your so-called Chinese Wall, and  
8 complimenting you on the job that you did and offering to  
9 individually, collectively do what we could to encourage all  
10 of the programs we're going to be asked to provide that  
11 information, to comply, in light of the effort that you and  
12 your office have put in.

13 Now you mention a problem that arose during that  
14 CSR. Out of how many programs that were required, would you  
15 give me the total number of programs that were required to  
16 give information?

17 MR. QUATREVAUX: Without information, 30.

18 MR. ERLNBORN: Thirty? So two out of 30. What  
19 about other information? Are you referring to the CSR all  
20 together?

21 MR. QUATREVAUX: No, I'm referring to the set of  
22 data which was at issue. There were 30 others from which we

1 collected data, but did not implicate this issue.

2 MR. ERLENBORN: This has been resolved, hasn't it,  
3 as far as your access to data? You went to court and hasn't  
4 this been resolved?

5 MR. QUATREVAUX: With respect to one grantee which  
6 accepted the court's decision, the District Court's decision.  
7 The other has appealed.

8 MR. ERLENBORN: So we now have one program. As a  
9 result of one program currently not giving you the  
10 information, it appears that when you're doing a, I would say  
11 a less important study because it's not one that was demanded  
12 by the Congress, you have made no attempt at all to protect  
13 the rights of the client population.

14 MR. QUATREVAUX: I would say it is not at all less  
15 important. Simply because Congress directs or requests that  
16 we do work, sure, I give it priority. It doesn't mean the  
17 work is any more important. As to the rest of your  
18 statement, it has escaped me. I don't intend to spend a  
19 quarter of a million dollars each time we want to visit with  
20 grantees.

21 MR. ERLENBORN: One last question. The letter that  
22 you sent to several members of Congress, various committees,

1 indicated I would say a total lack of cooperation by the  
2 management and the board of Legal Services Corporation in  
3 helping you do your job relative to getting information from  
4 programs.

5 MR. QUATREVAUX: They were not helpful.

6 MR. ERLENBORN: Did you not see fit to even mention  
7 the fact that we did cooperate with you. We did compliment  
8 you. We did urge programs to comply with your requests and  
9 the CSR report. Was there any reason that you would have  
10 left that out altogether, indicating that there was no  
11 cooperation given to you and your office?

12 MR. QUATREVAUX: Well, that dealt with the  
13 assessment, Mr. Erlenborn. I have other things to comment  
14 on. I had hoped to do it in closed session. If we're going  
15 to pursue down --

16 MR. ERLENBORN: Are you answering my question? Do  
17 you think that there was cooperation offered to you and  
18 received by you?

19 MR. QUATREVAUX: I think there has been a distinct  
20 lack of cooperation and actual resistance in an attempt to  
21 undermine our access to information in recent actions by the  
22 LSC leadership.

1           MR. ERLNBORN: I'm talking about what Bill  
2   McCalpin and I did back then. You know what I'm talking  
3   about. You think that we have been actively interfering with  
4   your rights to get information, Bill McCalpin and I and what  
5   we did?

6           MR. QUATREVAUX: Not when you agree with the work  
7   that we do. It's when you disagree that you don't.

8           MR. ERLNBORN: So you saw no reason to mention our  
9   cooperation?

10          MR. QUATREVAUX: No.

11          MR. ERLNBORN: Thank you.

12          CHAIR EAKELEY: Bill McCalpin.

13          MR. MCCALPIN: Ed, I think it was at the last  
14   meeting that I put to you a question of why the system of  
15   unique identifiers adopted, proposed by Baltimore and various  
16   other programs, was not adequate. My recollection is you  
17   weren't satisfied with those, and I wondered have you  
18   considered the fact that when the GAO investigated five  
19   programs, they were satisfied with a unique identifier  
20   situation?

21                 And the fact that Judge Robertson in deciding the  
22   case which you caused to be initiated in the District Court

1 referred to the arrangement you set up, I don't remember the  
2 words exactly, but "clumsy and unnecessary", or some words  
3 like that, he used in his opinion. Have you considered those  
4 facts at all when you say you can't accept unique  
5 identifiers?

6 MR. QUATREVAUX: Well, with respect to the last,  
7 the judge himself observed that it was not the province of  
8 the court, and I think there's good reason for that. The  
9 good reason is that you cannot run an agency or an IG program  
10 from the bench.

11 MR. MCCALPIN: Well, I think you've mischaracterized  
12 what he said, but I gather that you think there is no  
13 alternative but your having access to the name, address, and  
14 legal problem of every client of a legal aid program in the  
15 country.

16 MR. QUATREVAUX: I think that varies with the  
17 nature of the work that we're doing.

18 MR. MCCALPIN: What work that you do doesn't  
19 require that? Everything I've seen lately, you require it.

20 MR. QUATREVAUX: They denied us the client names in  
21 Georgia. But yet, asked for street addresses and legal  
22 problems, and you can identify -- don't we ask for problem



1 category, not problem code. Not domestic abuse, but family.  
2 Not mental health, but health. That's a much higher, more  
3 aggregated classification.

4 MR. MCCALPIN: Let me ask you one other question.  
5 In your letter to the Congress in the last week or so,  
6 September 15, you say, "The actions of the board of directors  
7 have undermined OIG by encouraging grantees to refuse to  
8 provide information to the OIG." What facts do you have  
9 to support that statement?

10 MR. QUATREVAUX: It's my view that agenda item 15  
11 on today's Board of Director's meeting can only be read by  
12 grantees as the LSC leadership supports the refusal and  
13 intends to act on it.

14 MR. ERLENBORN: Would you gentleman yield?

15 MR. MCCALPIN: I yield to my distinguished friend  
16 from Illinois.

17 MR. ERLENBORN: Let me ask the IG what do you  
18 believe or do you have some advance information as to what  
19 that report from the IG liaison will be?

20 MR. QUATREVAUX: No, Mr. Erlenborn, I don't, but I  
21 do have --

22 MR. ERLENBORN: And yet, that's the basis of for

1 your saying that this board is interfering with -- you don't  
2 know what it is, but we're interfering with your rights. Is  
3 that correct?

4 MR. QUATREVAUX: That's one base. There are  
5 others.

6 MR. ERLENBORN: What is the basis of that support?  
7 What is the report going to be?

8 MR. QUATREVAUX: I don't know what the report is  
9 going to be.

10 MR. ERLENBORN: Then how can you say that it's  
11 interfering with your rights, if you don't know what it is?

12 MR. QUATREVAUX: The action, act on. The board  
13 cannot act on anything to do with subpoenas, but let me  
14 continue.

15 MR. ERLENBORN: Why don't you wait until you get my  
16 report, and you will, I think, be surprised.

17 MR. QUATREVAUX: Well, that may be, but we also  
18 have other actions. Perhaps I've misinterpreted those as  
19 well.

20 MR. ERLENBORN: Well, that's the only one I've  
21 heard so far. You can answer Mr. McCalpin's question then  
22 more fully.

1           MR. MCCALPIN: What are the facts that you rely on  
2 other than the inclusion of item 15 on today's agenda?

3           MR. QUATREVAUX: I relied on the president's press  
4 release in his letter to me.

5           MR. MCCALPIN: You said, "the board."

6           MR. QUATREVAUX: All right, fine. We're going to  
7 get to it, so there's no sense holding back.

8           MR. MCCALPIN: So you don't have any evidence of  
9 the board undermining your efforts.

10          MR. QUATREVAUX: Oh, yes, I do. Yes, I do.

11          MR. MCCALPIN: What? Specify.

12          MR. QUATREVAUX: I was asked for a justification  
13 for the subpoenas.

14          MR. MCCALPIN: Do you concede that the board has  
15 the right to oversee your operation?

16          MR. QUATREVAUX: No.

17          MR. MCCALPIN: We have no right over you at all?  
18 No right to see what you do?

19          MR. QUATREVAUX: You don't have any right to  
20 question a subpoena. None.

21          CHAIR EAKELEY: Let me just back up a minute or two  
22 or three.

1           First, I don't think anyone on the board, acting on  
2   behalf of the board, ever meant to suggest that we were  
3   questioning the IG's statutory authority to issue subpoenas.

4   Although I might point out that we were advised by counsel  
5   that there is no explicit authority for issuance of subpoenas  
6   for longitudinal studies that may, in fact, replicate  
7   programmatic activities. And indeed, the Fifth Circuit that  
8   your counsel cites in another case said in the Burlington  
9   Northern case that IG should not be allowed to conduct  
10  program-operating responsibilities of an agency.

11           We're not into that. We didn't intend to get  
12  there. I don't think anybody suggested to you one way or the  
13  other don't do it or, once you did it, take it back. The  
14  starting point with the board's concern about the Georgia  
15  subpoenas was your assurance to the board at our meeting, in  
16  response to a concern expressed by Bucky Askew, that this  
17  kind of longitudinal study, designed to develop a tool that  
18  would help programs and board do their jobs better, could  
19  only be achieved through a collaborative effort.

20           The message we got back from you at the time was  
21  this was going to be a collaborative effort. And I believe  
22  that it was also reported to us that subpoenas, if the two

1 programs selected for the study had other priorities or were  
2 not as interested, then your office would look elsewhere for  
3 other programs to comply. So we were a bit surprised to see  
4 the subpoenas. And indeed surprised to see, not to see  
5 especially in this area, and we're not talking about  
6 investigations or audits, surprised to see subpoenas issued  
7 quite so promptly and seemingly quite so inflexibly.

8           Again, we're looking at or we want to look at the  
9 project, the IOLTA study. How much money you're spending on  
10 it. With whom you've contracted. How were they selected?  
11 Why was Georgia selected? What other activities like this  
12 are being planned around it, so that we can understand what's  
13 going on.

14           We're not questioning the subpoenas, but the study  
15 that underlies it. Just one other point for the record since  
16 it has been raised here and it's in your letter. Although I  
17 think the statutory authority may not, the language of the IG  
18 Act is fairly, it's obviously, it's broad, but the Northern  
19 Burlington case cuts that down. And, indeed, so does the  
20 Winters Ranch case I believe to a certain extent. We're not  
21 arguing about that, but we had a legitimate concern that I  
22 thought ought to be pursued, which is why I asked John

1     Erlenborn as OIG counsel to look into this and advise the  
2     board.

3             Now, you challenge our ability even to conduct  
4     oversight, but I think the way the question is phrased is  
5     not, unfortunately the agenda is not framed the way it ought  
6     to be either, it's not oversight of the subpoenas. Although,  
7     again, I don't think the IG Act prohibits oversight of  
8     subpoenas that are not issued pursuant to an investigation or  
9     audit.

10            The statute is very clear. It leaves out these  
11     other evaluative studies. But what we're looking at, and I  
12     think what we're entitled to exercise oversight of, is the  
13     IOLTA study and the resources you're committing to do it and  
14     the manner in which you're doing it beyond the subpoenas.  
15     The subpoenas are for the courts and for the enforcement  
16     proceeding.

17            I just want to be very clear that it was never  
18     anyone's intention to challenge or undermine or prohibit or  
19     pressure you on the subpoenas. The way it came up, and the  
20     study pursuant to which the subpoenas were issued, did raise  
21     questions. I don't think it's productive getting to the  
22     point where you say you have no authority, and we say we have

1 all the authority, because it's clearly somewhere else. It's  
2 important to recognize the independence of the IG, and I  
3 think we do in the main.

4           We have this continuing debate about the  
5 attorney/client privilege, the confidences of our clients,  
6 and the fundamental missions served by this corporation and  
7 by our grantees, which is to secure legal services for those  
8 who need them. Sometimes we lose sight of that in this  
9 debate about where the precise definitional boundaries might  
10 be as to respective authorities of the OIG and the board. I  
11 think the language may be unfortunate, but I think it's a  
12 mistake to read too much into the posting of an agenda item  
13 that says what it says, and the inquiry of the OIG liaison  
14 requested by me to inquire about statutory authority because  
15 it was unclear. But also, where are we going with this and  
16 why? Operationally, we went to a subpoena mode in the way we  
17 did with the purpose of just inquiring more into the study  
18 itself.

19           MR. QUATREVAUX: Fine, Mr. Chairman. A few points  
20 I need to make. All things are in context.

21           CHAIR EAKELEY: Yes, and I'm just trying to put  
22 them back in context.

1           MR. QUATREVAUX: As to your suggestion that there  
2   is a distinction between audits, evaluations, inspections,  
3   reviews, etcetera, there is none legally. I would not  
4   believe that the board has any more oversight into the  
5   initiation or conduct of an evaluation than it does on an  
6   audit or investigation. I'd be happy to answer your  
7   questions. It has to be understood going in, however, that  
8   what we're not talking about is whether or not the evaluation  
9   should have been done or will it be done.

10           CHAIR EAKELEY: I agree with you on the last point,  
11   and we will continue to disagree with you on the earlier  
12   points. I don't want to get into the legal debate, but there  
13   is no clear defining authority that says what you can do in  
14   this area or what we should do in this area. We're not  
15   talking about that, and we're not trying to get you to  
16   withdraw the IOLTA study. We'd like to know more about it  
17   obviously, because this is supposedly something that is going  
18   to help us and our grantees. I cut off what seemed to be an  
19   inclination towards a debate I'd rather not have, but I don't  
20   want to, I will yield to anyone around the table or at the  
21   witness table if need be. Maria.

22           MS. MERCADO: Well, in that letter that we received



1    yesterday, the main concern that I had with it was the  
2    proposed legislation from the IG to Congress to pretty much  
3    assert their way with attorney/client privilege.  As far as  
4    what role does the board have in having any kind of heads-up  
5    or indication from the IG that that is an issue that we ought  
6    to look at, because it's going much broader than just the  
7    subpoena issue, which is totally doing away with legal right  
8    of clients in general, regardless of what jurisdiction it's  
9    in.  And I didn't understand the parameters of why the IG's  
10   office is recommending that type of legislation.

11                    CHAIR EAKELEY:  But recall that the issue has come  
12   up in the past, most recently in writing in the context of  
13   our response to the semi-annual report of the IG for the  
14   period April 1, 1999, through September 30, 1999.  That led  
15   to a legislative proposal not unlike the one that has now  
16   been forwarded, although I have not done the textual analysis  
17   to compare.  You'll recall at our December board meeting, our  
18   November board meeting, this board expressed its support for  
19   access to records needed by the Corporation and its OIG for  
20   the proper discharge of their statutory responsibilities, but  
21   made clear that it does not support the particular  
22   legislative proposal submitted by staff.

1           I take it to be the sense of the board that we  
2   continue not to support the kind of legislative proposal that  
3   would invade the attorney/client privilege or the confidences  
4   of the client unless and until there is a demonstrated  
5   particularized need that we would then take into  
6   consideration at a further occasion.

7           I just want to pause there for a moment and make  
8   sure that I am accurately stating the sense of the board that  
9   it is our continued sense that this type of legislation is  
10   not warranted or required, and indeed, might have chilling  
11   effects on our clients and our grantees ability to serve our  
12   clients. Is that fair? I'm seeing heads nodding. Nancy,  
13   are you nodding your head, shaking your head?

14           MR. MCCALPIN: Absolutely.

15           CHAIR EAKELEY: Okay. Does that answer your  
16   question, Maria Luisa? Okay.

17           MS. MERCADO: Yes.

18           MR. BRODERICK: Mr. Chair, I just want to make one  
19   comment if I could. I say this with a great deal of respect  
20   for Ed Quatrevaux, who I've enjoyed dealing with over the  
21   last seven years, and I respect him and his work. What I  
22   find disheartening, and I speak personally as a member of

1    this board, and I was included, as all of us were, in that  
2    statement that we were undermining your authority, and I took  
3    some offense at that, and I want you to know that.

4                I've been a supporter of the IG's and remain a  
5    supporter of the IG's, but I was offended by that. I think  
6    there is room in the world in which we live, at least the  
7    world I occupy, for good faith disagreements. I would hope  
8    that you would understand that. People can look at problems,  
9    and I deal with that every day in my professional life.

10               People have different views of the same facts.  
11   They have different views of the law that applies to those  
12   facts. The fact that we might hold a different understanding  
13   of your role or the latitude you have should not be  
14   interpreted unfairly to us, and I speak personally to you, as  
15   undermining your authority. That's neither my intention nor  
16   would I expect it to be the effect.

17               I think sometimes words and phrases are used too  
18   loosely. They do great damage to people. I've just come  
19   through four months where people speak loosely and damage  
20   reputations. I want you to know that I consider you a  
21   friend. I respect you professionally, but I was very hurt by  
22   those comments personally. I think you ought to rethink what

1     you say when you say it because you damage people, and you  
2     damage people on this board when you say it.

3                 I don't believe for one minute, Mr. Quatrevaux,  
4     that we have attempted as a board, nor do I believe the  
5     management of this Corporation has attempted to undermine  
6     your authority. But every time people disagree with you, and  
7     I've seen it repeated, you tend to suggest there's some  
8     illicit purpose to it. I can assure you I do not travel  
9     around the country as a volunteer on this board to undermine  
10    the lawful authority of the IG's office. I would hope you  
11    would cut us some slack when you write those kinds of letters  
12    because they sting, and they're not necessary. I want that  
13    on the public record, and I wanted you to hear me on the  
14    public record.

15                MR. QUATREVAUX: Well, I'm sorry that you've taken  
16    offense, and I certainly did not intend to criticize you as  
17    an individual. I have to say that the board as a collective  
18    of 11 individuals, the board has appointed a representative.  
19    That representative asked me to justify subpoenas. That  
20    representative asked me to hold off filing a petition for  
21    enforcement. That representative told me the board wanted to  
22    discuss its appropriate role in the subpoena process.

1           Taken with the President's press release, which  
2   sent a very public message to the grantees, it made the  
3   situation impossible. We can't operate, and that's why I  
4   took the action. I apologize that you were caught up in that  
5   collective.

6           MR. BRODERICK: I tell you, and I speak not just  
7   for myself but for my colleagues on the board whom I respect  
8   and I realize the important of language, it seems to me a  
9   letter could be written saying, we continue to have a good  
10   faith disagreement as to my role, and as a consequence of  
11   that disagreement, my ability to do X, Y, and Z is being  
12   impeded or hampered. That's a whole lot different than  
13   writing to the Congress of the United States, to the Senator  
14   of my own state, Senator Gregg, suggesting that I am involved  
15   in an activity to undermine the lawful authority of the IG.  
16   Now that may be a casual sentence in a letter. But I read  
17   it, and it stung.

18           I would ask you in the future, going forward, to  
19   give people the benefit of the doubt. Just because we may  
20   not agree with you, Ed, doesn't mean we're not right. And  
21   even if we're not right, it doesn't mean we're not acting in  
22   good faith. It creates a very regrettable public record. I

1     don't think it serves the IG's office. I know it doesn't  
2     serve this board very well to have that ongoing.

3             There are ways to resolve problems that I think  
4     don't require that kind of activity. I would hope you would  
5     consider that going forward. I say that as someone who has  
6     been a supporter of the IG and of this specific IG since I  
7     arrived here at the Corporation. I want to continue that  
8     support, but I want you to know how I feel about it. Thank  
9     you.

10            CHAIR EAKELEY: I told you I was going to ask this  
11     question off the record, and I forgot to ask it on the  
12     record. But pursuant to our communications policy, we have  
13     an undertaking to advise the board of informal communication,  
14     simultaneously, if there's a written communication with the  
15     Congress. Informally, if there are verbal communications,  
16     telephonic or meetings, not necessarily simultaneously, but  
17     just as a follow-up to your letters to the Hill last weekend,  
18     have you had, or your staff had other communications with the  
19     Congress since we last got together.

20            MR. QUATREVAUX: No, we have not.

21            CHAIR EAKELEY: Thank you. Ernestine.

22            MS. WATLINGTON: I agree with the judge as a

1 client, in trying to do my role as a board member here  
2 representing the clients. We've had problems, disagreement  
3 before, off and on, but I thought we had come to an agreement  
4 at one time where that anything, before it goes to Congress  
5 or any of those types things, that the board would know that  
6 you came. I thought that was a very good agreement, that the  
7 board would be made aware what kind of correspondence was  
8 going to Congress. I thought that we, didn't we come to some  
9 kind of agreement and had that done? So I thought that would  
10 eliminate a lot of the problems, you know, of hurting, and as  
11 judge says, making us feel that we are not doing our job  
12 we're trying to do.

13 Are we all supposed to be here for the client  
14 community, and we fought long and hard back in the days that  
15 client privilege situation, I would state in Pittsburgh and  
16 things, in those early days. I've been around a long time,  
17 and those were some of the problems in the early days that we  
18 fought very hard, you know, protecting our clients, and  
19 justification. I know that was one of the things.

20 I know you don't always realize that information  
21 can get into the wrong hands, and it can be detrimental, so  
22 there should be a way to do those things, and attorneys in

1 those programs have worked very hard so that you can do that  
2 without getting that kind of information. I thought the  
3 board and the OIG office had worked out some kind of  
4 agreement. I know the judge, you know, said the liaison with  
5 the OIG office had worked out where, these types of things.  
6 But when those kind of letters go to Congress, like I say, it  
7 makes us feel real bad. Me, personally, too.

8 CHAIR EAKELEY: Actually, Ernestine, the  
9 communications policy that we have requires a simultaneous  
10 submission to the board of letters going up to the Hill. And  
11 in fairness to Ed, that's what his, we received by Federal  
12 Express a letter that was delivered the same, the day before  
13 we received it, but the day it was posted. But I think we  
14 have a different communications issue on this one. It's  
15 interesting you used the word justification.

16 What John Erlenborn and I discussed was this legal  
17 question of statutory authority, both with respect to  
18 subpoenas issued for longitudinal studies and for board  
19 oversight, or how do these mesh in this relatively  
20 unprecedented area. Ultimately, where are we going with this  
21 and what does the study look like and putting aside the  
22 subpoena issue, what's the study? What's it like? Where



1 are we going?

2 We might have been able to clarify the intent with  
3 which the questions were posed, but also, I think, had I  
4 called you or you called me when the Federal Register notice  
5 went, I think we could have saved a little bit of sting and  
6 misunderstanding had we reached out for each other at that  
7 stage, either or also.

8 MR. QUATREVAUX: Well, I will tell you that the,  
9 seeing the agenda item in the Federal Register was a shock.

10 CHAIR EAKELEY: Yeah, I just assumed that you would  
11 get that, and I apologize for the assumption. I just assumed  
12 that that stuff goes through your office the way it goes  
13 through management. There really wasn't anything nefarious  
14 intended in the inclusion of that item, other than to suggest  
15 this is an area the board has never been involved with  
16 before. And there were some legitimate questions that I've  
17 already outlined, and we needed to ask our OIG liaison to  
18 help us walk our way through them. So, basically, that's a  
19 reiteration of my explanation, but that's what it was.

20 All right. Any other? Mr. Erlenborn.

21 MR. ERLNBORN: Mr. Chairman, let me thank board  
22 member Broderick for his comments. I think they were very

1 well taken. In my political life over the course of the  
2 years I've seen what used to be a much more reasoned  
3 discourse and discussion of differences of opinion turn into  
4 the demonization of the other party, rather than reasoning  
5 with them or discussing with them your differences of  
6 opinion.

7 I think that this aspect of what you've done to  
8 this board is a reflection of that, and I think that's  
9 unfortunate. You could have when we talked indicated that  
10 you thought my request was unreasonable, and you didn't  
11 intend to respond to it. Actually, I made another request to  
12 which you did not respond. I think the comments of the  
13 Justice are very well taken.

14 There's one other thing I want to ask. You made  
15 reference to the 1996 amendments. That actually was an  
16 amendment in the appropriation bill relative to access. As I  
17 recall that amendment, first of all, let me ask you, in your  
18 research or your attorneys' research, did you find any  
19 retroactive application of that amendment?

20 MR. QUATREVAUX: I'm sorry. I don't understand.

21 MR. ERLNBORN: You don't understand. Well, if  
22 it's passed in 1996 and it says, this is what you can do, it

1 takes effect when the bill becomes effective and until the  
2 language is removed in some way. So that's prospective  
3 effect. Retrospective effect is that when it's passed in  
4 1996, it applies to everything that happened before, or some  
5 date specified in the amendment. I wonder was there any  
6 retroactive effect of the 1996 amendment.

7 MR. QUATREVAUX: I just don't know. I'm sorry.

8 MR. ERLNBORN: One of the provisions in that  
9 amendment was that clients must be notified by the programs  
10 providing legal services to them that the confidential  
11 information that they're giving would be available to the  
12 Inspector General. Do you know if any attempt has been made  
13 to go back before the 1996 amendment was passed, backed to  
14 1990, which is the demand under your subpoena, to give that  
15 information to the clients?

16 MR. QUATREVAUX: No, I don't know.

17 MR. ERLNBORN: Don't you think that if you're  
18 relying upon that amendment that you should comply with the  
19 terms of that amendment and discover whether it has any  
20 retroactive effect, if you are going to use it to get  
21 information from 1990 up to 1996 when the amendment was  
22 adopted.

1                   MR. QUATREVAUX: I rely on counsel for that, Mr.  
2 Erlenborn.

3                   MR. ERLNBORN: Do you feel you're on solid ground,  
4 having researched this?

5                   MR. QUATREVAUX: Well, this is the first surfacing  
6 of that comment.

7                   MR. ERLNBORN: You see, this is the kind of thing  
8 that we can discuss, and we should discuss, to find out what  
9 you're doing, whether it is legally justified, what we might  
10 be able to do in concert with you to accomplish your goal  
11 without violating the rights of clients. I don't think  
12 you've made that attempt.

13                   It appears that you had a goal in mind when you  
14 started this and it included the subpoenas. I'm sorry that  
15 you're not apparently willing to engage in reasoned  
16 discourse, but rather this demonizing tactic. Thank you, Mr.  
17 Chairman.

18                   CHAIR EAKELEY: Maria Luisa?

19                   MS. MERCADO: I think that Mr. Erlenborn has  
20 certainly brought up an important issue, which is whether any  
21 of that information that we have gone retroactively to 1990  
22 in violation of the 1996 amendment is actually legitimate to

1 be used because we weren't allowed to do that prior to 1996.

2 CHAIR EAKELEY: I don't want to cut you off, Maria  
3 Luisa. I did not propose that we tread or walk into the area  
4 of, I think John Erlenborn was using this as an example, but  
5 I don't think it's appropriate for us to be debating the  
6 scope of the subpoena, for example. Now this is, as the IG  
7 indicated, that there would be an enforcement action. There  
8 will be a testing of that then. It's not the board's  
9 province to, I think, although it may be unclear, I was not  
10 proposing that we venture into the area of the subpoenas.  
11 And indeed, I was proposing that we not do that.

12 MS. MERCADO: I'm just trying to figure out where  
13 our oversight role falls into place, if we're then going to  
14 be turned around and pursued because of an inappropriate  
15 action that was not properly researched.

16 CHAIR EAKELEY: I think that's up to counsel. Edna?

17 MS. FAIRBANKS-WILLIAMS: If the clients weren't  
18 notified that their paperwork was going to be scrutinized by  
19 any or all, I don't see how it can be scrutinized unless some  
20 paper is sent out to each and every one of them that they  
21 sign for and agree that their stuff can be scrutinized at  
22 this date rather than that date when they signed their

1 paperwork. It seems to me like there's going to be quite a  
2 bit of work here to make anything legal.

3 CHAIR EAKELEY: Well, that I think is the intent of  
4 the proposed legislation. And I think we've already  
5 registered our views on that.

6 All right, is that it? Of course, you may comment  
7 if you wish.

8 MR. QUATREVAUX: I do want to say I'm told by  
9 counsel that that provision was not in the 1996  
10 appropriation. I understand from counsel also that the  
11 American Bar Association said it was unnecessary because then  
12 -- I'm not going to speak to it. I'm sorry.

13 CHAIR EAKELEY: Okay.

14 MR. QUATREVAUX: This matter is in litigation.

15 CHAIR EAKELEY: Yeah, no. I think there's got to  
16 be a way for us to find a way to exchange views without  
17 coming to blows about it. But in any event I think that's  
18 enough for this. Is there any other part of your report, Ed,  
19 for now? I think we're two hours into the meeting. It might  
20 be appropriate to take the midafternoon break if there's no  
21 dissent from that. Why don't we reconvene in ten minutes?

22 (A recess was taken.)

1           CHAIR EAKELEY: Nancy, are you in order? You're the  
2 only one. All right, we're back in session and on item 9 of  
3 the agenda, the President's report. John McKay.

4           MR. MCKAY: Thank you, Mr. Chairman. My report  
5 will indeed be brief. I first would like to just point out  
6 to the board, while we are meeting here in San Francisco, our  
7 staff in Washington is working very, very hard. In  
8 particular this is the time for competition.

9           Our staff is working very hard gathering  
10 information from our grantees all across the country, under  
11 Mike Genz's leadership, but we involve essentially all of our  
12 OPP staff in that process. We are working also under  
13 additional understandings with the field and field  
14 representatives. And I want to thank Clint Lyons of NLADA in  
15 particular for earlier discussions that we've had in writing  
16 concerning the need to review the applications early on, make  
17 determinations as early as possible as to whether we will  
18 need to go on site to follow up on issues raised in the  
19 application process.

20           Under Randi Youells's leadership, we are doing  
21 this. We've made commitments to the field and responded back  
22 to Clint that it would certainly be our better practice to be

1 on site before we take any action in particular, reduce term  
2 funding in order to allow an on-site inspection which  
3 occurred last year. It is our intention to do that in every  
4 case this year, and I think we will succeed. I wanted to  
5 bring it to the board's attention that we are working very,  
6 very hard in this area.

7 Our compliance in the enforcement unit continues to  
8 work very hard in following up both on complaints and on its  
9 schedule for reviewing individual programs and their  
10 compliance with federal law and LSC regulation. It was my  
11 privilege to be in Hawaii with board member Bucky Askew.  
12 He's already reported on that. Also, I went to Albuquerque.

13

14 I wanted to add to Bucky's report and indicate that  
15 in Hawaii we had Representatives Patsy Mink and Neil  
16 Abercrombie actually announce those awards with us. That was  
17 in Hawaii. In Albuquerque we had Representative Heather  
18 Wilson who announced the grants to both the D&A program and  
19 service to the Navajo and Hopi nations, and also to the now  
20 newly merged Northern New Mexico program which received an  
21 immigration grant. What was merged in the Northern New  
22 Mexico, by the way, were the Indian Pueblos of New Mexico,



1    what was formerly the Legal Services program that served all  
2    of the Pueblos, so that the announcements that we made in New  
3    Mexico were very much in support of technology to programs in  
4    Indian country.

5               I'm very proud of the work that has been undertaken  
6    by Mike Genz with Glenn Rawdon, Tim Watson, and wanted to  
7    commend them for an excellent job, and to thank many of our  
8    partners outside Legal Services Corporation for their  
9    assistance in helping us put together the process of awarding  
10   \$4.25 million in technology grants. We do a lot of  
11   grantmaking at LSC, but we do it on the basis, all board  
12   members know, of the census count for indigent persons. Here  
13   we had discretion to make these awards.

14              I think when all is said and done, those of you,  
15   and most of you were present for Glenn's presentation  
16   yesterday to Choy, Watlington, and provisions, but we're  
17   very, very pleased with that. We will make two more major  
18   announcements. We've made those decisions.

19              They will be announced publicly at press  
20   conferences in the states in which they're being awarded at  
21   the end of the month. We will again ask for board  
22   representative to attend each of those two events. And we'll

1 be talking with Doug Eakeley and certainly one or two of you  
2 in order to accomplish that. I think the board should be  
3 very proud of our activities with regard to these technology  
4 grants.

5           With regard to our appropriations, Mauricio has  
6 briefed the board. I want to publicly thank both our strong  
7 bipartisan coalition that exists today in the House of  
8 Representatives and in the United States Senate for their  
9 support thus far in our appropriations request. I also want  
10 to publicly thank the administration for their support thus  
11 far. We have some ways to go before we are completed, but we  
12 are very encouraged that our clients will receive more  
13 resources when all is said and done in this appropriation  
14 year. And I know that every board member and member of the  
15 public here today supports that undertaking.

16           I wanted to thank and commend, I guess I'm  
17 following up on a lot of others, Johnathan Ross who traveled  
18 along with Terri Brooks to Washington recently to meet with  
19 me. We had, I think, a full and frank discussion about  
20 issues. We talked about areas of mutual concern for Legal  
21 Services Corporation and this board's strategic plan and  
22 initiatives. I think we have identified some preliminary

1 areas where the particular legal expertise and history of the  
2 American Bar Association can assist us in our efforts.

3           We pledge to work closely with Johnathan Ross and  
4 staff and the American Bar Association with, of course, other  
5 members of the public. But I think it's very fair to say  
6 that we see a particular role in some of the matters that we  
7 discussed. And we did discuss a range of matters in which we  
8 can work together. I wanted to thank John for coming down  
9 from New Hampshire to do that meeting with me, and also Terri  
10 Brooks.

11           It was my privilege to represent the Corporation at  
12 the American Bar Association annual meeting in New York, and  
13 then a follow-on session in London. We took this  
14 opportunity, Randi Youells and I, to establish what we think  
15 will become permanent staff contacts with the array of  
16 providers of Legal Services in Great Britain. We believe  
17 that there are many instances in which the shared  
18 information, shared experiences can be put to use for our  
19 clients, and frankly that there is some responsibility on our  
20 part to assist others, even outside our country, in learning  
21 from the experience of the United States in the provision of  
22 civil legal services for the poor.

1           We received a tremendous welcome there. I was  
2 privileged to speak at the opening of the first race  
3 discrimination unit of legal services opened in the city of  
4 London. I was pleased to represent the board at that event.

5     We do hope that being in a position, as Bill McCalpin  
6 pointed out, I think the same situation in Canada, that we  
7 can learn from other countries' experiences in attempting to  
8 assess unmet legal needs, a matter which we clearly have  
9 before the United States Congress, and that we can learn from  
10 techniques and experiences of other countries in meeting our  
11 obligations to the poor of America.

12           I also accepted an invitation to travel briefly to  
13 Paris to meet with representatives of French legal aid  
14 providers. I had a very productive meeting there. I think,  
15 without going into detail, I want to just indicate to the  
16 board that I think the French experience is so much different  
17 from ours in terms of the role of the profession. We  
18 probably gave more information about how the legal community  
19 can be helpful to citizens of their country than social  
20 workers and others who perform that function in France. They  
21 were very interested. We offered to share with them the  
22 information that we had, and I then returned to London.

1           The extensive part of the meetings were with  
2   British Legal Aid. I wanted to report on those to the board.

3    If board members have any questions about that, I'd  
4   certainly be glad to put the materials together and send them  
5   on to you. We hope this will signal the start of permanent  
6   staff contacts and exchange of information with those  
7   countries.

8           I came to this meeting directly from a remarkable  
9   conference in my home state of Washington, an access to  
10   justice conference that was attended by over 2,000 lawyers  
11   and judges in Spokane, Washington. I had the privilege of  
12   addressing a large number of lawyers and judges, including  
13   most of the Supreme Court of the state of Washington.

14          I wanted also to report to the board that I had  
15   about an hour-long meeting with Justice Deborah Hankinson of  
16   the Texas Supreme Court. I think it's noteworthy because I  
17   believe that the board's commitment as demonstrated at our  
18   annual meeting in Austin, Texas, has had a very, very strong  
19   impact on efforts in the state of Texas.

20          I report that directly from Justice Hankinson who  
21   had come to the conference to learn more about the access to  
22   justice board that Washington state has set up, and several

1 other states have set up like it. She has indicated to me  
2 that she believes that there is a very strong sentiment on  
3 the board, following its public hearing at which our chairman  
4 testified during our annual meeting to the Supreme Court of  
5 Texas. The court itself has now a renewed and a very strong  
6 commitment to create an umbrella organization under the  
7 auspices of the court to help coordinate legal aid in Texas.

8

9 I think that that's a remarkable step forward for  
10 our programs and all eligible clients in Texas. I think the  
11 board should be commended for its commitment on that trip.

12 We have a number of major issues which I will not  
13 discuss and simply say that our chairman's review of the  
14 important issues facing us are obviously the issues facing  
15 your staff. We take them, I want to say to you that they are  
16 exciting projects. Our staff is excited to assist you and to  
17 staff those issues along with you. They are very important  
18 issues we think for our client communities and there is just  
19 a great deal of enthusiasm at LSC in Washington to undertake  
20 those topics.

21 Finally, I just want to alert board members that I  
22 have authored a law review article in which I discuss the

1 vision of legal services and the role of federally funded  
2 legal services. It's written in my individual capacity.  
3 It's been accepted for publication in the University of  
4 Tennessee law review for the fall. I'm not sure if I, I  
5 actually don't think I'm free to circulate it until it's  
6 published because they now own the copyright, but you will  
7 recognize it as something that has been a work in progress  
8 for me for a year. Some of the language you will note has  
9 worked its way into strategic initiatives and other matters.

10

11 I don't think there's anything in there that's  
12 going to be completely new or different. But I wanted to  
13 alert you to that, and I'd be glad to discuss it with board  
14 members individually. That's my report, Mr. Chairman.

15 CHAIR EAKELEY: John, I meant to ask this of the  
16 IG, but let me ask you since it was on your report. In his  
17 letter to the chairs of our appropriations subcommittees, the  
18 IG recommended that the Congress reject LSC management's  
19 request for additional M&A funds that were sought for three  
20 purposes. One, to strengthen its capacity to ensure  
21 compliance with congressional restrictions. Two, to monitor  
22 and improve the accuracy of its case services reporting

1 system. And three, to conduct compliance investigations.

2 The reason given as I read the letter was that the  
3 compliance inspection procedures adopted by management in  
4 three cases where you negotiated those protocols for access  
5 are ineffective. I'm not quite sure what the connection is  
6 between protocols and strengthening capacity to ensure  
7 compliance with restrictions or monitoring and improving the  
8 accuracy of CSRs.

9 First, could you just remind us. When the budget  
10 request was being developed, obviously it was submitted on  
11 behalf of the Corporation which included management and OIG,  
12 were these issues and the reasons for their requested  
13 increase in the M&A line for those purposes discussed with  
14 the OIG?

15 MR. MCKAY: Yes, they were. And I, in fairness,  
16 have not had the opportunity to discuss the Inspector  
17 General's letter with him, but the answer to that is yes.

18 We had specific discussions about that budget  
19 request and what it was meant for. He unequivocally  
20 supported it at that time, and obviously, has not changed his  
21 mind. No question that at the time we discussed this issue,  
22 he concurred that and acknowledged and I believe always has



1   acknowledged that management has its own responsibility to  
2   assure compliance with congressional law and the regulations  
3   of the Corporation. I believe he was very supportive of  
4   that.

5               With respect to the question of the protocols  
6   developed by management, would you like me to address that?

7               CHAIR EAKELEY: Yes, I mean the question posed for  
8   the board by the letter here is -- there are two questions  
9   posed to the board. The first is do we support the requested  
10   increase in light of the IG's recommendation. And secondly,  
11   is there cause for concern that compliance inspection  
12   procedures adopted by the board are ineffective?

13              Let's start with that latter question first. Just  
14   address the effectiveness of those protocols and whether they  
15   worked out in the individual cases.

16              MR. MCKAY: Respectfully, I disagree with the  
17   apparent conclusion of the Inspector General. I do believe  
18   that the identifiers that were developed, I think first  
19   through the GAO and then secondly through our office in the  
20   Westchester-Putnam situation later, identified for use with  
21   the Legal Aid Bureau of Baltimore, Maryland, and finally in a  
22   potential arrangement with the Western Missouri program. I

1 have read the protocols. Our staff has obviously done that.

2 Danilla Cardona's staff, Burt Thomas, who is I think here as  
3 well, with Westchester-Putnam having come to that  
4 arrangement, and we then used that as a pattern, which is why  
5 I mentioned Westchester-Putnam.

6 I have asked the Inspector General to provide our  
7 office with material or information that he may have  
8 regarding his reasons for disagreeing with the use of these  
9 so-called blind indicators or random sequence identifiers as  
10 a means, not an easy one, but as a means of resolving  
11 questions about access that are spawned by claims of  
12 attorney/client privilege.

13 Respectfully, I've disagreed with Ed Quatrevaux on  
14 this. I do believe that they can be productive, and I would  
15 just cite for the board's consideration that the material and  
16 conclusions presented by the GAO with respect to CSR  
17 compliance and some of the problems that our own recipients  
18 were experiencing was revealed through just such a method. I  
19 disagree with him. We do have an independent need, at times,  
20 in compliance and enforcement to seek access. I think it is,  
21 and he's acknowledged this I believe correctly, a separate  
22 issue regarding access that sometimes confronts management.

1           We have worked carefully with programs. We have,  
2   at times, indicated the programs. We've gone as far as to  
3   say that we will suspend funding if we don't receive the  
4   access to which we're required. Any implication in the  
5   letter that management, with regard to its own access needs,  
6   has not pursued their statutory right and obligations as I  
7   think, again, I would respectfully disagree with that.

8           CHAIR EAKELEY: This may be a leading question, but  
9   I've got to write a letter to the Congress in response to the  
10  IG letter after the board meeting, and we needed to get a  
11  sense of the board on this. But is it still management's  
12  view that additional M&A funds could be productively and  
13  effectively used to strengthen its capacity to ensure  
14  compliance with Congressional restrictions?

15           MR. MCKAY: Yes, absolutely.

16           CHAIR EAKELEY: How about the second one? Is it  
17  still your view that additional M&A funds could be used  
18  productively and effectively to monitor and improve the  
19  accuracy of the case services recording system?

20           MR. MCKAY: No question about it, the answer to  
21  that is yes.

22           CHAIR EAKELEY: Last, repeat and to conduct

1 compliance investigations?

2 MR. MCKAY: Absolutely, yes.

3 CHAIR EAKELEY: Like you were proposing to conduct  
4 more compliance investigations.

5 MR. MCKAY: I believe about 40.

6 CHAIR EAKELEY: All right. Is it the sense of the  
7 board that we stand by the budget request that's pending in  
8 the Congress for additional M&A appropriations for these  
9 three purposes?

10 MR. MCCALPIN: I move that that is the sense of the  
11 board.

12 MS. MERCADO: Second.

13 CHAIR EAKELEY: All those in favor?

14 (Vote taken.)

15 Opposed?

16 (Vote taken.)

17 Okay, thanks. Any other questions of the  
18 President? Hearing none, I have to find, retrieve my agenda,  
19 and move on to item 10, consider and act on the report of the  
20 board's Committee on Provision for the delivery of legal  
21 services. And we have with us the chair of that committee,  
22 Ernestine Watlington, who continues to run the most punctual

1 meetings in the history of this particular board, at least.

2 MS. WATLINGTON: So punctual I forgot the minutes,  
3 but I did go back for it.

4 CHAIR EAKELEY: I really don't mean to belittle the  
5 efforts that your predecessor chair made at trying to run a  
6 good meeting, Ernestine.

7 MS. WATLINGTON: I think you have a stake in that,  
8 but that was a very good planning, state planning  
9 presentation, that three programs presented. In fact, they  
10 are so good that they videotaped it so that they can show it  
11 to all the field programs. They can use that as an example  
12 of what state planning can do. We had a real good report  
13 from Glenn Rawdon on the LSC technology initiative and Randi,  
14 the vice president of programs, did a good report on the  
15 development and revision of the CSR system, and also the LSC  
16 diversity initiatives. It was a really good learning  
17 meeting. Everyone did a very good presentation. There is  
18 nothing that we have to vote on.

19 CHAIR EAKELEY: All joking aside about the severity  
20 with which you run meetings, it was just a very wonderfully  
21 informative meeting. And I think also just very encouraging.

22

1                   Nancy, I know you weren't there. Does Nancy or  
2 anyone else have any questions of Ernestine about the  
3 provisions committee meeting or what's coming up on the  
4 agenda?

5                   MS. HARDEN ROGERS: No.

6                   CHAIR EAKELEY: John McKay?

7                   MR. MCKAY: Well, I just wanted to follow up on one  
8 of Chair Watlington's comments, which was that one of the  
9 reports, Nancy, that was received was with regard to Native  
10 American funding. There was substantial presentation there,  
11 in part responsive to your concerns raised at our meeting in  
12 Minneapolis. We do have, I think, a packet of information,  
13 Nancy, that we ought to just send directly to you if you  
14 don't object to that. It has, I think, much more detail. I  
15 think that most board members were present at provisions. I  
16 know there's going to be a financial report on that subject  
17 when we do the finance report.

18                  CHAIR EAKELEY: Which is right now unless there are  
19 other questions of Ernestine. Then let's move to item 11,  
20 which originally read, "consider and act on the report of the  
21 board's Finance Committee," but which now adopts the agenda  
22 of the Finance Committee as the agenda of this board for this

1 meeting. We'll welcome David Richardson to the table, and I  
2 will cede the chair to Nancy Rogers.

3 MS. HARDEN ROGERS: I think I've got to thank you,  
4 John, for that offer. I'd be very pleased to have the copies  
5 of that report. The first item that I think will delay the  
6 approval of the minutes until our next committee meeting, and  
7 can move to item 3 on our committee agenda, is the report  
8 that David has on the consolidated operation budget expenses,  
9 other funds by 31st. It has with it a report on the  
10 projected operating expenses for the rest of the year that's  
11 based on that.

12 Action item. If you look at the materials, do you  
13 have them before you, David's cover memo and the report?  
14 David has highlighted any expenditures, is it beyond or any  
15 changes beyond about \$10,000? Is that right, David?

16 MR. RICHARDSON: That is correct.

17 MS. HARDEN ROGERS: In that list -- that he and I  
18 have gone over the list, and I think the appropriate thing  
19 right now would be to see if there are any questions of  
20 members of the board, David.

21 CHAIR EAKELEY: Nancy, there do not appear to be  
22 any questions from the board.

1           MS. HARDEN ROGERS: Okay. Then I think we might be  
2 prepared to consider the resolution which may be in the  
3 materials as well? Is that correct?

4           MR. RICHARDSON: Yes, ma'am. It is true.

5           MS. HARDEN ROGERS: So I would move the resolution  
6 2000-011. It approves the consolidated operating budget  
7 revisions for fiscal year 2000.

8           CHAIR EAKELEY: Tom Smegal seconded it. Edna or  
9 Ernestine? I'm sorry. Nancy made the motion. I just have  
10 to distinguish among the three of you for the second, for the  
11 record. Who would like to second it for the record?

12          MR. RICHARDSON: Done.

13          CHAIR EAKELEY: Okay. Nancy, just to summarize,  
14 this resolution basically reflects the consolidated operating  
15 budget report that it's attached to.

16          MR. RICHARDSON: That is correct, sir.

17          CHAIR EAKELEY: Are there any questions about the  
18 motion, or any comments? Okay, Nancy, back to you. Nancy, we  
19 have to vote it. I was waiting for you to call the question.

20          MS. HARDEN ROGERS: Oh, sorry.

21          CHAIR EAKELEY: As in, all those in favor?

22          (Vote taken.)



1                   Opposed?

2                   (Vote taken.)

3                   Okay, the ayes have it. The resolution passes.

4                   MS. HARDEN ROGERS: The next item is the temporary  
5 operating budget for fiscal year 2001. It is set forth in a  
6 separate memorandum. It is necessary. We will not meet  
7 again before the next fiscal year begins. It, of course, is  
8 on no knowledge as it has come out of our budget for that  
9 year. It represents, I think it's, David, you said basically  
10 a continuation with changes that are mentioned there in the  
11 memo.

12                  MR. RICHARDSON: That is correct. Basically, it's  
13 five meetings for the board meeting as it states there in the  
14 memo. Three out of Washington, two in Washington, the level  
15 of the staffing, and then the increases in rent, salary that  
16 we're anticipating for the new year. There's also just for  
17 your reference the projected staffing that this budget would  
18 support, and if I can just say one additional thing, is that  
19 this is based on basically as Nancy says a status quo budget.  
20 And of course, we're requesting more money from the Congress  
21 so if we do get the appropriation or an increase that we're  
22 hoping, this staffing level and expenses will go up

1     accordingly. That budget request, of course, is \$12.5  
2     million for management.

3                 CHAIR EAKELEY: Nancy, do you want to move the  
4     resolution?

5                 MS. HARDEN ROGERS: I do. It's resolution 2000-  
6     012, and it is a resolution to approve the proposed temporary  
7     operating budget for fiscal year 2001.

8                 CHAIR EAKELEY: Is there a second?

9                 MR. ERLNBORN: Second.

10                CHAIR EAKELEY: John Erlenborn seconded it. Is  
11     there any comment or are there any questions? Hearing none,  
12     all those in favor of the resolution say aye.

13                (Vote taken.)

14                Opposed?

15                (Vote taken.)

16                The ayes carry it. Nancy, you are making record  
17     progress.

18                MS. HARDEN ROGERS: The next item, I think you have  
19     already discussed the briefings by Randi, as I understand it  
20     from listening. Yes, although I think, I don't know, but it  
21     was my impression from the Provisions Committee meeting  
22     yesterday, that Randi had something other or further to say,

1 but not seeing her here, I suspect that that may not be the  
2 case. David?

3 MR. RICHARDSON: She did not have additional  
4 comments. It was mainly to repeat what she had said at that  
5 committee, basically giving the funding level and discussing  
6 that.

7 CHAIR EAKELEY: I think we were almost all there  
8 yesterday.

9 MR. MCKAY: Maybe I could just add, Nancy, I did  
10 hear your comment. We will get those materials to you and  
11 would be glad to discuss them.

12 MS. HARDEN ROGERS: Great, terrific. The next item  
13 is the budget marked for fiscal year 2002. That budget mark  
14 is, what's proposed is \$394 million, and you have before you  
15 a memo from David Richardson on some of the assumptions. I  
16 suspect that on this, there may be some discussion and  
17 perhaps some public comment.

18 MR. RICHARDSON: If I can just sort of walk through  
19 our rationale with the budget mark. What we have attempted  
20 to do was look at of course last year's budget request, and  
21 sort of move forward from that. What we are suggesting at  
22 this point is we've taken last year's basic field funding.

1 We've given a CPI increase of 5 percent to that, but then in  
2 addition to that, we have set some money aside for program  
3 enhancements. That is in the neighborhood of 10 percent  
4 also.

5           There's two programs that are here that our  
6 President has indicated he would like for us to undertake.  
7 One is a nationwide retirement program for our legal services  
8 attorneys. So we've set some money aside for that, and  
9 additionally, the student loan forgiveness program. We hear  
10 all the time, of course, when an attorney comes out of  
11 college, they have anywhere from \$60,000 to, according to  
12 what school you go to, \$100,000 in debt. So what we are  
13 proposing here is to set up a program of loan forgiveness.  
14 We've set some money aside for that and that undertaking.

15           In addition, management is working on a budget.  
16 It's not yet been reviewed completely by management, but  
17 we're close. Then the IG, of course, has presented a budget  
18 also with a 3.3 percent increase for his line. What we are  
19 asking you to do, and of course we do anticipate additional  
20 comment, we have received information from the NLADA in  
21 regards to their budget request. They took a very similar  
22 line that they had last year. They increased it for CPI, and

1 if Don is here, we'd certainly like for him to come forward,  
2 that would be fine. Their request was \$476,200,000.

3 What we have done is we're looking at what we can  
4 get passed through the Congress. They are expressing a need  
5 out there, of course, much greater than that. But we're  
6 trying to walk a thin line, a balancing line here, so what  
7 we're asking is that you approve a budget mark of \$394  
8 million. I have provided a resolution to our Chairman,  
9 basically along the same lines that we have asked that you  
10 approve the budget mark in the past, where, when we go to  
11 OMB, we have our discussions and if there is a need for any  
12 type of adjustment, that he has the authority to do that.

13 CHAIR EAKELEY: Don, did you want to present  
14 NLADA's recommendation?

15 MR. SAUNDERS: Thank you, Mr. Chairman and hello,  
16 Madam Chair. It's a pleasure to talk with you. I'll be very  
17 brief.

18 MS. HARDEN ROGERS: Thank you.

19 MR. SAUNDERS: If you recall last year, in Seattle  
20 I believe it was, I presented what is essentially the same  
21 approach that NLADA brings to you today on behalf of our  
22 board and policy group and its Chair, the Policy Group's

1 Resource Committee, Colleen Conner from Indiana. Our  
2 approach again is laid out in writing, and I won't get into  
3 much detail, but we would urge you to go as high as you feel  
4 comfortable doing in this political environment. Our budget  
5 figure is based simply on restoration. The \$476 million we  
6 present to you is the amount of the LSC appropriation in 1995  
7 prior to the significant cutbacks and the erosion of  
8 inflation since that time.

9           As I point out in our memo, or as we point out in  
10 our memo, we don't feel as if the cuts on this program are  
11 really related, to much extent, to the budget reduction  
12 effort. We feel it was a political effort designed  
13 inordinately to attack this program. We are entering into  
14 its transitional stage of government. You will be submitting  
15 a budget both to the current administration and it will be  
16 revised by the subsequent administration, as well as a new  
17 Congress.

18           We feel it's a reasonable position for you to take  
19 to say at this point, as one of your last budgets you'll  
20 present to the Congress, that the level of funding in 1995  
21 was inadequate at that point. It's not unreasonable for this  
22 board to seek, in a new political infrastructure, a return to

1     that approach. Having said that, we understand the situation  
2     you operate in.

3                 It's really our pleasure in the NLADA, and I can  
4     speak for the ABA here I think, to work as your partners. We  
5     would offer you all the support that we can in terms of our  
6     own political efforts and look forward to working with you in  
7     that regard. I would certainly suggest that \$394 million is  
8     a step in the right direction. We would urge the board to go  
9     a little further.

10                If I might speak on my own, because we haven't had  
11     an opportunity at NLADA to assess the proposals for student  
12     loan forgiveness and pension, but we certainly -- I was just  
13     at the California director's meeting in which there was a  
14     strong sentiment toward the issue of student loans. As you  
15     suggest, I hear this all over the country as an issue. Its  
16     time has come. We do look forward to our partnership on  
17     diversity issues as well with this board, and certainly the  
18     concept of student loans is front and center in any efforts  
19     we do on diversity. Having said that, I certainly think it's  
20     a good idea to be looking at that issue.

21                CHAIR EAKELEY: Thanks, John. John McKay has a  
22     comment, Nancy, if it's okay with you. Then, I have a

1 comment, too.

2 MR. MCKAY: Thank you. I think that Dave  
3 Richardson and Jim Hogun would agree with me on this, the  
4 issue on the student loan program and the retirement fund,  
5 which we're calling internally Alpha/Omega, in an effort to  
6 strengthen our community, is not one that we are at this time  
7 proposing.

8 I think in the budget lexicon, we simply are  
9 protecting these funds. We have not really bedded this  
10 discussion internally. We haven't reached out to the legal  
11 services community. But I think it is a fair reflection of  
12 our having listened to what I think are important issues out  
13 there. And we didn't want to tie the hands of the board or  
14 the rest of the community by not protecting funds, and so  
15 under Jim Hogun's leadership, we have tried to develop some  
16 basis to include them in a budget mark, so I don't mean to  
17 highlight them too much. There will be more discussion about  
18 them. We just didn't want to foreclose them for another year  
19 hence.

20 MR. SAUNDERS: And I certainly think the time is  
21 right now for us to, we welcome the opportunity to have a  
22 dialogue around these issues. They are absolutely essential.



1           CHAIR EAKELEY:   The -- Bucky.

2           MR. ASKEW:   May I just comment on that one portion?

3       When I spoke to the southeast project directors this summer,  
4       and Don was there, in my written remarks I didn't raise this  
5       but after talking to the president in my informal remarks to  
6       him, I raised the issue of these two potential initiatives.

7           I must say the response was overwhelmingly positive  
8       just on an ad hoc basis to these two things.   So I think we  
9       do need to go through the discussion period, but I think  
10      we're going to be met with a good positive response to this  
11      from our field programs.

12          CHAIR EAKELEY:   I don't want to put a damper on all  
13      this but sometimes in my more fatigued, depressed moments, I  
14      can't but pause to reflect upon the fact that our first  
15      budget mark was one estimating a minimum access budget of a  
16      billion dollars.   And now we are debating the political  
17      possibility of getting back to where we were in 1995 adjusted  
18      for inflation.   But I don't try to think about that too often  
19      right now.

20          I just think about going for it and getting the  
21      most we can out of the Congress and continuing step by step  
22      to build a new bipartisan coalition supporting access to

1 justice unrestricted and reauthorized. So thank you very  
2 much, Don. I'm sorry, Mr. McCalpin.

3 MR. MCCALPIN: I may not have heard clearly, but  
4 has the ABA expressed a view with respect to a budget mark?

5 CHAIR EAKELEY: We can pose that question to  
6 Johnathan.

7 MR. MCCALPIN: And I asked that because typically  
8 the president of the ABA has testified frequently in the past  
9 successfully in support of appropriation.

10 CHAIR EAKELEY: Nancy, John Ross has now come to  
11 the table on behalf of SCLAID.

12 MR. ROSS: Thank you. The answer to the question  
13 is, not yet. The SCLAID Committee will meet by telephone on  
14 October 10, and that's on our agenda, and we will adopt a  
15 budget mark long before the need for testimony will be there.

16 And I can tell you that we're committed to continuing the  
17 grass roots support that we've worked with this Board in  
18 Congress in strengthening it and making it better for a  
19 better result for the people we serve. And that we have the  
20 unqualified support of Martha Barnett from Florida as the  
21 current ABA president. Thank you.

22 CHAIR EAKELEY: Thank you.

1 MS. ROGERS: Thank you, Johnathan.

2 CHAIR EAKELEY: Edna Fairbanks-Williams.

3 MS. FAIRBANKS-WILLIAMS: Just one question on the  
4 Student Loan Forgiveness, have we figured out that we asked  
5 them for three years, five years or whatever?

6 CHAIR EAKELEY: John.

7 MR. MCKAY: Edna, no. I was not very clear on  
8 that. We have not developed the program because that will  
9 involve a lot of discussion with our field programs and with  
10 folks affected by it. We're just trying to protect some  
11 dollars here in the creation of our budget mark so that if we  
12 should decide to offer that program, we will have done so  
13 within our budget. So the details have not at all been  
14 worked out. But conceptionally, as Bucky pointed out, we  
15 hear what people in the field are saying, and in our  
16 administration of the grant system, we see this as an issue  
17 that we probably should consider. So we are very early in  
18 the process. We're just trying to protect the funds to allow  
19 us the opportunity to do that.

20 MS. FAIRBANKS-WILLIAMS: Having had some experience  
21 of this in the past with dentists and then deciding to leave  
22 the state within the year's time, I would hope that the

1 Congress doesn't ask you those same questions if you're not  
2 ready to answer them.

3 MR. MCKAY: Well, we'd certainly welcome any  
4 experiences you have, and I think you're right to look at  
5 other professions. We certainly will do that. But again, we  
6 have not put a program together and will take your comments  
7 very much to heart.

8 CHAIR EAKELEY: Nancy, will you permit one more  
9 observation or comment? We are currently at 305 minus a  
10 recession. So somewhere around 303 plus.

11 MR. RICHARDSON: 303, 841.

12 CHAIR EAKELEY: We are currently in the process  
13 with a request for 340, but with the Senate on the high side  
14 at 300 and the House at 275. By voice vote, I should also  
15 mention that. It is our great hope that we will succeed in  
16 obtaining the 340. It is amply demonstrated, I think, and  
17 justified. Nonetheless, putting in perspective what we're  
18 seeking by this budget mark, it's still as Don mentioned a  
19 step in the right direction and a significant step at bat,  
20 and I think reflective of the political reality of the  
21 moment.

22 I think we have the flexibility to change that mark

1 if circumstances change. But I remember OMB's response to  
2 our first mark, not that I would have changed the mark for  
3 the world in hindsight. But nonetheless, I think that it's  
4 important to be realistic as well and do the best we can. So  
5 in any event, that's why we are where we are, and we do  
6 appreciate the great support that the ABA and the NLADA in  
7 particular and our other partners in collaboration have meant  
8 to this process of rebuilding. Any other questions or  
9 comments?

10 MR. MCKAY: I need to make one more.

11 CHAIR EAKELEY: John McKay needs to make one more.

12 MR. MCKAY: I think one issue that's missing from  
13 the discussion that I would just like to inject is that I  
14 think as we have found in our oversight hearing in the House,  
15 the real issue here is unmet need. And I think board members  
16 are aware of that, and the question is not answered yet. We  
17 don't have at this time a good assessment of what it would  
18 take to meet the unmet need of poor people.

19 I think all of us in our experience are aware that  
20 the current level of funding is far below that, whatever it  
21 may be. And so our efforts in obtaining an updated legal  
22 need study are very important, and we hope that that will be

1     also revealing.

2                   CHAIR EAKELEY:   Maria Luisa.

3                   MS. MERCADO:   Yes.   In light of the comment earlier  
4     that when we first started on this board, we initially  
5     started with a billion dollar request.   I think it was an  
6     \$894 million request probably.   Assuming minimum access with  
7     whatever data we had at the time, whatever needs assessment  
8     we had at the time, is it fair to say that it's significantly  
9     greater because a number of poor people is greater now?   But  
10    what time frame would you think you would be looking at in  
11    trying to look at an analysis of the needs assessment?

12                  CHAIR EAKELEY:   In our current budget request is a  
13    request for funds to conduct a national legal needs survey.  
14    I don't know whether we have established the time line, but  
15    it would be promptly upon receipt of the appropriation if we  
16    get it.

17                  MR. MCKAY:   We have some guide lines that the board  
18    has given us with respect to that study if it is funded, in  
19    particular the comments to the Vice Chairman, Mr. Erlenborn,  
20    and we have heard those very clearly.   You can be sure that  
21    we will be relying extensively on outside expertise, but we  
22    are ready to go and we'll develop that very quickly if we get

1 the authority to do it.

2 CHAIR EAKELEY: All right, may I present the  
3 resolution and then ask perhaps that the Finance Committee  
4 chair propose it. The resolution reads, whereas, the board  
5 of directors of the Legal Services Corporation has received  
6 and considered testimony regarding the fiscal year 2002  
7 budget mark for LSC, and whereas the board is determined that  
8 LSC is a program in vital need of additional funding to  
9 provide for the legal services needs in poverty. Now,  
10 therefore, be it resolved that the board hereby adopts a  
11 budget mark in the amount of \$394 million for fiscal year  
12 2002 with the revisal that LSC's chairman as full authority  
13 to negotiate with the Office of Management and Budget, and if  
14 it becomes necessary, adjust the budget mark as becomes  
15 necessary.

16 MS. ROGERS: Yes, Douglas, with the understanding  
17 that management and the board would prefer to be asking for a  
18 larger amount, in the sense that the legal needs are much  
19 greater than reflected by that amount, but that they have  
20 studied this carefully and think that LSC will be in the best  
21 position if we request \$394 million. I move the resolution.

22 CHAIR EAKELEY: Is there a second?

1 MR. SMEGAL: Second.

2 CHAIR EAKELEY: Tom Smegal second. Any further  
3 discussion? All those in favor of the resolution please say  
4 aye.

5 (Vote taken.)

6 Opposed?

7 (Vote taken.)

8 MS. MERCADO: Nay. Yes, because I think we should  
9 ask for more.

10 CHAIR EAKELEY: Nay. One nay on record, Maria  
11 Luisa Mercado for the reason stated.

12 The ayes have it. The resolution carries. That  
13 takes us to item 10, Nancy.

14 MS. ROGERS: Is there any other business for the  
15 Finance Committee?

16 CHAIR EAKELEY: There is none noted.

17 MS. ROGERS: I think it's appropriate to adjourn  
18 the Finance Committee meeting since it's the meeting of the  
19 full board, and therefore I would say we're done.

20 CHAIR EAKELEY: We have an agenda item of public  
21 comment for the Finance Committee, but I would propose that  
22 we just incorporate that into the public comment at the end



1 of the board meeting if that's all right.

2 MS. ROGERS: Fine.

3 CHAIR EAKELEY: Actually, we took public comment  
4 out of order. That's my fault. I don't know what got into  
5 me, but I say Don Saunders is striving to come to the podium.

6

7 All right, we are back to the board of directors  
8 agenda for September 18. And item 13, establish the Board's  
9 FY 2000 Annual Performance Reviews Committee. I'm sorry, it  
10 was such an effective meeting. I don't know what overtook  
11 me, but I skipped item 12 and the distinguished Justices from  
12 the New Hampshire Supreme Court consider and act on the  
13 report of the board's Operations and Regulation Committee.

14 MR. BRODERICK: Mr. Chairman, thank you. I will be  
15 very brief. I think virtually everyone in this room was at  
16 that meeting. We really considered two things, one  
17 principally, and that was the adoption of a rulemaking  
18 protocol for LSC rulemaking activities. We had a draft in  
19 front of the board. There were suggestions made by several  
20 board members, Mr. Fortuno, and I thank him for that, in the  
21 time that we had made the corrections. I've looked at it and  
22 in the time that I've had, I think he captured them. In any

1 event, we voted unanimously at the committee to recommend the  
2 adoption of this protocol by the board. And unless there are  
3 comments or questions about the revised draft rulemaking  
4 protocol, which Mr. Fortuno circulated in early afternoon,  
5 they should be in front of you, I think it was just passed  
6 out by Bucky Askew, a resolution that would call for the  
7 board's vote to adopt the proposed protocol for rulemaking.  
8 And so that's before you.

9           The last thing that I just wanted to mention,  
10 during the course of our meeting this morning, there was  
11 discussion about a Notice of Proposed Property Acquisition  
12 and Management Manual. Mr. McCalpin raised some issues about  
13 the board having an opportunity to -- no, I'm sorry it wasn't  
14 on that. I misspoke. With respect to that notice of  
15 Proposed Property Acquisition and Management Manual, it was  
16 voted to go forward and publish it. I don't think the board  
17 needs to do anything about it at the present time, but I  
18 wanted to bring it to the board's attention.

19           In any event, Mr. Chairman, that takes us back to  
20 the rulemaking protocol and the resolution, and I don't know  
21 whether it needs to be read into the record or whether we can  
22 just insert it into the record.

1           CHAIR EAKELEY: Well, in the resolution there are  
2   six whereas clauses followed by a single resolution, namely,  
3   that the board of directors hereby adopts the attached  
4   rulemaking protocol as the policy of the Legal Services  
5   Corporation. So how is that?

6           MR. BRODERICK: That's very good, and with that I  
7   guess I would put it, maybe the chairman would do that, put  
8   it to a vote.

9           CHAIR EAKELEY: In other words you're moving the  
10  resolution?

11          MR. BRODERICK: I am, sir.

12          MS. FAIRBANKS-WILLIAMS: Second.

13          CHAIR EAKELEY: Second. I think Edna beat Bucky to  
14  the second. Is there any further discussion or comments?

15          MR. MCCALPIN: Do you think I should?

16          CHAIR EAKELEY: You didn't mean that, so I'm not  
17  responding. All those in favor?

18                 (Vote taken.)

19                 All those opposed?

20                 (Vote taken.)

21                 This was said at the committee meeting and most of  
22  us were here, you're right, but let me say it again. This is

1     reflective of a great deal of effort and conscientious  
2     pulling together of a very important procedure, and I commend  
3     all of those involved and thank them as well.

4             MR. BRODERICK: Mr. Chairman, thank you, and I  
5     wanted to especially recognize Mattie Condray and Victor  
6     Fortuno. They were very helpful in making this happen and  
7     were working last night and circulating drafts back and  
8     forth, and I think Kinko's was the principle beneficiary.  
9     But in any event, I want to thank them.

10            CHAIR EAKELEY: Maria Luisa.

11            MS. MERCADO: Yes, I know the chairman got a copy  
12     of the revised protocol with the changes we made earlier this  
13     morning in the Hobson Riggs Committee. Is it possible to  
14     just get a copy of it?

15            CHAIR EAKELEY: We will definitely circulate that.  
16     Victor, do we -- we have some copies.

17            MS. MERCADO: Great.

18            CHAIR EAKELEY: Instantaneous gratification. John,  
19     anything else on the Hobson Riggs report?

20            MR. BRODERICK: Nothing else to report, Mr.  
21     Chairman.

22            CHAIR EAKELEY: That means we are on item 13.

1 Establish the board's FY 2000 Annual Performance Reviews  
2 Committee to conduct the fiscal year 2000 annual performance  
3 appraisals of LSC's President and its Inspector General.  
4 John Erlenborn has served very well in this capacity in the  
5 past, but we have other things in store for him as shadowed  
6 by item 14. And if this resolution passes and we establish  
7 the same procedures that we have established in the past,  
8 that were really authored largely through the hard work of  
9 Bill McCalpin, then my proposal would be to appoint Tom  
10 Smegal as this year's Performance Reviews Committee chair.  
11 So with that disclosure on the table, is there a motion to  
12 conform to an agenda item 13?

13 MR. ERLNBORN: So moved.

14 MS. MERCADO: Second.

15 CHAIR EAKELEY: Any further discussion?

16 MR. SMEGAL: Does this mean the second team is in  
17 charge now?

18 CHAIR EAKELEY: The resolution should authorize the  
19 board chair to appoint, it also authorizes the chairman to  
20 appoint the Annual Performance Reviews Committee and to get  
21 it started to conduct its efforts. Would you take a friendly  
22 amendment to your motion, Mr. Broderick?

1 MR. BRODERICK: Yes, I certainly would.

2 CHAIR EAKELEY: With that amendment, all those in  
3 favor?

4 (Vote taken.)

5 Opposed?

6 (Vote taken.)

7 I hereby appoint Tom Smegal chairman of the  
8 Performance Reviews Committee.

9 MR. SMEGAL: It's a great honor, Mr. Chair, to  
10 follow in the footsteps of a great American like John  
11 Erlenborn.

12 CHAIR EAKELEY: I did not have a chance to consult  
13 with the other members of the board for further compensation  
14 of the board. I'll get back in touch and make those  
15 appointments very promptly before we leave San Francisco.

16 MR. ERLENBORN: Mr. Chairman.

17 CHAIR EAKELEY: Mr. Erlenborn. Ex-Performance  
18 Review Committee chair.

19 MR. ERLENBORN: Does the action just taken presage  
20 a substitution for me sometime in the near future as OIG  
21 liaison?

22 CHAIR EAKELEY: We'll have to conduct a full round

1 of consultation before I can answer that question, but we  
2 have an annual meeting coming up. Speaking of next items, 14  
3 is consider and act on the establishment of an independent  
4 panel, and delegation to the board chair of authority to  
5 appoint the membership thereof, to study and report to the  
6 board on the impact of LSC restrictions on the services that  
7 LSC grantees provide to clients.

8           You all should have received a September 16 memo  
9 from me outlining what we call Erlenborn to. Although I'm  
10 not predicting who we might appoint as the chairman of this  
11 committee. The purpose is simply to take a look first at a  
12 couple of restrictions with the intention to evaluate their  
13 impact, intentional or inadvertent, and report to the  
14 Congress. This is a very important first step, and I'm very  
15 glad that we are at this point in some ways or other.

16           Bill, you didn't. I'm sorry, Nancy, did you get a  
17 copy of the memo?

18           MS. ROGERS: Yes, I did.

19           CHAIR EAKELEY: Okay. Are there any questions?  
20 John Erlenborn or John McKay, do you want to say anything  
21 about it other than what's in the memo already?

22           MR. ERLNBORN: I think the memo is quite

1 all-inclusive.

2 CHAIR EAKELEY: All right, it will be my intention  
3 if this resolution passes to appoint John Erlenborn as chair  
4 of this Commission. If there are no questions or comments I  
5 would -- yes, Maria Luisa.

6 MS. MERCADO: Yes. I wasn't sure whether this was  
7 just a recommended initial review I guess of areas that you  
8 had studied because I didn't see anywhere in here the issue  
9 of Class Actions.

10 CHAIR EAKELEY: This commission's proposed charter  
11 is to deal with fee-generating cases and attorney's fees and  
12 use of non-LSC funds and transfers of program integrity and  
13 just to focus on those two clusters of issues as a first --  
14 this is the two that we will be asking the Commission to  
15 tackle as a first step. But the Commission is authorized to  
16 review restrictions, will be authorized to review impact of  
17 restrictions. Do we have the resolution, Victor?

18 MR. FORTUNO: Yes, in the board book.

19 CHAIR EAKELEY: In my board book. Let me read the  
20 three resolutions that formed the single resolution, which is  
21 2000-009.

22 It is resolved that the board of directors hereby



1 establishes a special commission to study and to report to  
2 the board on its findings regarding the effects of certain  
3 legal restrictions on LSC recipients' ability to provide  
4 equal access to justice to low income persons. Be it further  
5 resolved that the chair of the board is hereby authorized to  
6 appoint the membership to the special commission. Be it  
7 further resolved that the commission is authorized to hold  
8 public hearings and take testimony from interested parties to  
9 aid in its study in the issues herein identified, and be it  
10 further resolved that the commission shall compile a factual  
11 record and prepare findings and transmit both to the board  
12 along with any recommendations it may have related to the  
13 issues identified herein.

14 All right, is there a motion to adopt a resolution?

15 MR. SMEGAL: So moved.

16 MS. MERCADO: Second.

17 CHAIR EAKELEY: Mr. Smegal and Ms. Mercado. Any  
18 further discussion? All those in favor of the resolution,  
19 please say aye.

20 (Vote taken.)

21 Opposed?

22 (Vote taken.)

1           The ayes have it.

2           Item 15, consider and act on report by OIG liaison,  
3 John Erlenborn, concerning OIG issuance and enforcement of  
4 subpoenas on Georgia programs.

5           John, I think we probably pretty much anticipated  
6 most of the report, but if you have anything further to add  
7 you may do so carefully.

8           MR. ERLENBORN: Well, I would like to, particularly  
9 in light of the fact that the Inspector General seems to have  
10 anticipated what the report will be, and as I told him  
11 earlier, he may be surprised when he hears the report.

12           Mr. Chairman, Eric Kirkland of the Office of  
13 Inspector General met with Randi Youells to discuss a  
14 longitudinal study the Office of Inspector General wanted to  
15 conduct in Georgia using two LSC grantees. He stated that  
16 this study would not be an evaluation or a assessment, but  
17 merely an effort to understand change over time. The OIG did  
18 not characterize the project as a audit or investigation.  
19 That was in June.

20           In July, the Georgia Legal Services Programs who  
21 had been chosen by the OIG wrote to the Office of Inspector  
22 General suggesting several procedures which would provide the

1 necessary information without violating the client's right to  
2 protection of the lawyer/client privilege. On July 18, the  
3 OIG served administrative subpoenas on the two LSC grantees  
4 in Georgia for use in an ongoing evaluation "ongoing  
5 evaluation of the services delivery to client".

6 The grantees have refused to respond to the  
7 subpoenas citing legal objections. It has been revealed that  
8 the OIG has contacted the Justice Department requesting it to  
9 represent OIG in seeking court enforcement.

10 The board of the LSC is the designated head of the  
11 agency pursuant to the Inspector General Act. Section  
12 8(g) (d) states that each IG shall report to and be under the  
13 general supervision of the head of the designated federal  
14 entity. Skipping some language here, the head of the  
15 designated federal entities, but again quoting, "the head of  
16 the designated federal entity shall not prevent or prohibit  
17 the Inspector General from initiating, carrying out, or  
18 completing any audit or investigation or from issuing any  
19 subpoena during the course of any audit or investigation."

20 Section four of the IG Act outlines the IG's  
21 duties, including number one, "to provide policy direction  
22 for, to conduct audits and investigations relating to the

1 programs and operations of such establishment," and I would  
2 call your attention to the fact that that paragraph one  
3 reiterates the language of the prohibition as it applies to  
4 audits and investigations.

5           Section three, or paragraph three of section four  
6 states to recommend this, is again spelling out the authority  
7 of the OIG, to recommend policies for and conduct, supervise,  
8 or coordinate other activities carried out or financed by  
9 such an establishment for the purpose of promoting economy  
10 and efficiency in the administration of or preventing and  
11 detecting fraud and abuse in its programs and operations.

12           And I just call your attention to the fact section  
13 four and these two paragraphs set up two separate sets of  
14 duties. One being related to audit and investigations. The  
15 other, activities of the Inspector General. There appears to  
16 be no controlling legal authority to help interpret these  
17 provisions.       Reading the two provisions together, the IG  
18 Act limits the board's general supervision by prohibiting the  
19 board from preventing or prohibiting anything involving an  
20 audit or investigation.

21           This could be read to mean that the board retains  
22 general supervision powers over the other activities. As the

1 designated liaison to the board of the OIG, I was asked to  
2 explore these issues with the Inspector General. In doing  
3 so, I requested the Inspector General to furnish me with a  
4 memo outlining the legal authority for his issuing and  
5 enforcing the Georgia Project subpoenas, not having any idea  
6 that I would have such a response to that request, which I  
7 didn't at the time.

8 I specifically asked for the OIG's interpretation  
9 of the specific prohibitions contained in section 8(g)(d),  
10 limited there to audits and investigations. After the  
11 passage of several weeks, and only after I made another  
12 request, the OIG furnished me with a memo. This memo went to  
13 some length to show authority to issue and enforce subpoenas.  
14 But it did not even touch upon the specificity of 8(g)(d) in  
15 prohibiting board action in interfering with the IG's conduct  
16 with any audit or investigation.

17 I recall commenting to Mr. Quatrevaux that one of  
18 the rules of statutory construction is that the specific  
19 overrules the general. That specific limitation of the  
20 board's authority, in applying only to the audits and  
21 investigations made, indicate that no such limitation as to  
22 other activities of the OIG was intended.

1           With this background, I conclude number one, that  
2   the law is not to be interpreted by the courts and there  
3   doesn't seem to be any guiding information in the legislative  
4   record. There appears that there may be a proper role for  
5   the board in the conduct of the OIG activities other than its  
6   audits and investigations. As one approach to exercising  
7   that role that I could recommend to the board would be to  
8   request the Inspector General to discuss the project with the  
9   board about how it may be carried out without running  
10   roughshod over the rights of clients. The fact that the  
11   poor are able to seek legal advice and help from LSC grantees  
12   funded by federal funds should not mean that these clients'  
13   rights to the lawyer/client privilege and confidentiality is  
14   lost to them. I don't believe that it is necessary to  
15   abrogate their rights to conduct a study or evaluation.  
16   Instead of effectively criticizing the board, I believe the  
17   IG should enter into a dialogue with the board with the goal  
18   of completing the study while protecting the rights of  
19   clients.

20           One last comment, Mr. Chairman, is I wrote out this  
21   report to the board quite some time before the IG appeared  
22   before the board today, and this was the report I intended to

1 give then, and it's the one I give you now.

2 CHAIR EAKELEY: I thank you for the report. Any  
3 questions or comments? Good. Well, thank you, John. I  
4 think that that is a good basis for a future dialogue, and it  
5 gives the board some orientation on this very important  
6 issue.

7 MS. MERCADO: But you still don't have the answers  
8 to the questions you have, right?

9 MR. ERLENBORN: Answers to what?

10 MS. MERCADO: To the questions that you have in  
11 your memo.

12 MR. ERLENBORN: I don't think that it's a matter of  
13 answering questions as to the proper interpretation of the  
14 language. I think that there are arguments on both sides of  
15 how you interpret that. I don't think it's clear.

16 As I said before, there is no controlling legal  
17 authority. I think what we should do, though, is to look at  
18 the results rather than the contest in interpreting this  
19 language. The results should be that any proper study  
20 proposed by the Office of Inspector General be carried out.  
21 The other proposition is that it be done without trampling on  
22 the rights of the low-income clients merely because they

1   happen to be using attorneys that are funded by the LSC. I  
2   think they should have the same rights as all other citizens.

3               CHAIR EAKELEY: Okay.

4               Well, I take it that with the nodding that that is  
5   the sense of the board, and we accept your report and your  
6   thoughtful comment.

7               MR. MCCALPIN: Mr. Chairman, I would simply say  
8   that I have looked at the statute and the cases, and I agree  
9   completely with what the Vice-Chairman has said.

10              CHAIR EAKELEY: Okay, and I think that's enough  
11   said on this particular topic for this particular day, and I  
12   thank the OIG Liaison.

13              Next is item 16, consider and act on proposed  
14   change of the currently scheduled March 2001 board meeting  
15   date, and since Victor Fortuno is coming to the table, I  
16   assume he can explain what this means.

17              MR. FORTUNO: After the board settled on a meeting  
18   schedule for calendar year 2001, it came to our attention  
19   that there is in fact a conflict. I believe that the equal  
20   access to justice meeting is occurring at the same time as  
21   our board meeting scheduled for March 30 and 31. Is that  
22   right?



1 CHAIR EAKELEY: That's right. That's what we have.

2 MR. FORTUNO: So the proposal was that the board  
3 reconsider the dates for that particular meeting, possibly  
4 moving it up a week or moving it back a week, and we've  
5 checked to see whether there are any known conflicts with  
6 either the weekend before or the weekend after, and are aware  
7 of none. So it's the board's preference whether to move it  
8 back a week or forward a week.

9 CHAIR EAKELEY: Well, we're meeting in January on  
10 the 26 and 27 in Alabama. My inclination would be to move it  
11 up a week.

12 MR. MCCALPIN: I would put out to you that if you  
13 move back a week, it takes it into the proximity of the 7th  
14 and 8th, which is Passover.

15 CHAIR EAKELEY: Why not the 23rd and 24th of March?

16 MR. FORTUNO: There is no conflict during that  
17 weekend. So that's an available weekend.

18 CHAIR EAKELEY: Is that all right with everyone?

19 MR. MCCALPIN: Where is that meeting?

20 CHAIR EAKELEY: In D.C.

21 MS. MERCADO: Okay. I thought you meant forward to  
22 April.

1           CHAIR EAKELEY: No, I was saying, let's do it March  
2 23, 24. Nancy, are you okay with that as far as any of us  
3 can tell early on?

4           MS. ROGERS: Yes, as far as I can tell.

5           MR. SMEGAL: Doug, I'm not okay on that, but I  
6 wasn't okay on the other one either.

7           CHAIR EAKELEY: Okay. You'll forgive us if we go  
8 ahead on that one.

9           MR. SMEGAL: I want to talk about June. I want to  
10 bring June up.

11           CHAIR EAKELEY: Let's go with March 23 and 24 for  
12 the D.C. meeting. Tom, I think that was the only scheduling  
13 thing on this agenda, but I think what we should do is the  
14 same scheduling check for June. Have you raised with Victor  
15 your June issue?

16           MR. SMEGAL: Long ago.

17           CHAIR EAKELEY: There's also this Australia thing  
18 now, possibly in June, but have we gone back on June?

19           MR. MCCALPIN: I don't have specific dates for the  
20 Australia thing. June 2001, I don't know beyond that.

21           MR. MCKAY: That's not an issue for the board  
22 meeting. We'll get that in.

1 CHAIR EAKELEY: Tom.

2 MR. SMEGAL: We have the 9th and 10th. I can't  
3 make the 9th and 10th. The 1st and 2nd will be fine.

4 MR. ASKEW: Where's the board meeting for June the  
5 9th and 10th?

6 CHAIR EAKELEY: In New Hampshire.

7 MR. ASKEW: Can we move that? Mr. Smegal, who  
8 won't be there in March, can be there in June.

9 MR. FORTUNO: I believe -- well, I don't have the  
10 records before me, when we checked to see what the  
11 availability of board members, we found that there was  
12 frankly no time that was good for everyone in that general  
13 time frame. So we certainly can move it to another week.

14 CHAIR EAKELEY: Well, I don't think we can. Let's  
15 go back and check again if we could. We can't set. We have  
16 to go back and check a number of calendars before we change  
17 dates, so let's stay with the date, but check again if that's  
18 okay.

19 MS. MERCADO: Check the weekend before and the  
20 weekend after. The 15th and 16th or the 1st and 2nd. Can  
21 either one of those work for you, right?

22 MR. MCCALPIN: Where is the June meeting?

1           MR. FORTUNO:   Portsmouth, New Hampshire.

2           MS. MERCADO:   You'll probably want it later in June  
3 actually.

4           CHAIR EAKELEY:   The board chair will now entertain  
5 a motion to go into Closed Session to consider items 17, 18,  
6 and 19 on the agenda.

7           MS. FAIRBANKS-WILLIAMS:   So moved.

8           MS. MERCADO:   Second.

9           CHAIR EAKELEY:   All those in favor?

10           (Vote taken.)

11           Opposed?

12           (Vote taken.)

13           Okay, we are now in Closed Session.

14           (Whereupon the Open Session meeting adjourned at  
15 4:00 p.m. to reconvene at 4:45 p.m. this same day.)

1 OPEN SESSION (Resumed)

2 CHAIR EAKELEY: All right. We are on item 20,  
3 consider and act on other business. Is there any other  
4 business? Hearing none, we will go to public comment.

5 MR. GAVARRA: Good afternoon.

6 CHAIR EAKELEY: Good afternoon. Could you just  
7 speak into the microphone and identify yourselves, if you  
8 would, please?

9 MR. GAVARRA: Thank you very much. My name is  
10 Ramone Gavarra. I'm a room service waiter here at the  
11 Marriott. I've been here for ten years. I was born and  
12 raised in San Francisco. This is my wife, Edna Gavarra. She  
13 is accompanying me here this afternoon.

14 First and foremost, I'd like to thank you, Mr.  
15 Chair, and the rest of the committee members for your time  
16 this afternoon. We really appreciate it. I'd also like to  
17 thank, on behalf of the members of Local 2, which there are  
18 over 900 members here at the hotel, for your sincere and kind  
19 words this morning pledging your support for us during this  
20 difficult time where we have launched a boycott against the  
21 Marriott Hotel here in San Francisco. We really appreciate  
22 your support, and please keep in mind that when you see me

1 here alone it's only in body. The spirit of 900 members is  
2 behind the words that I am talking to you this afternoon.  
3 Thank you.

4 CHAIR EAKELEY: Well, thank you. We felt a little  
5 bit of the solidarity before the meeting, but again, it was  
6 awkward for us to come into the situation, but we also  
7 appreciate the union's understanding.

8 MR. GAVARRA: Thank you. We are launching the  
9 boycott against the Marriott Corporation because we have been  
10 denied the important benefits and protections afforded to  
11 other hotel workers throughout the city and have been for the  
12 last 30, 40 years. There are over 8,000 members throughout  
13 the city which enjoy access to childcare, elder care funds,  
14 HIV funds, and, of course most importantly at this time,  
15 legal service fund. The rest of the hotel city workers enjoy  
16 this throughout the city, and we are being denied that access  
17 because of the lack of a contract that has not been signed at  
18 the Marriott.

19 The Marriott continues to withhold gratuities,  
20 which are paid for by the guest, and not forwarded to the  
21 workers in its entirety. Me, myself, I work a function,  
22 let's say inside a suite, and I get 19 percent service charge

1 to the guest, but I get the equivalent of a 10 percent of a  
2 service charge. That has been going on since I have been  
3 here for 10 years.

4 I'd like to give you other examples of the benefits  
5 that we are not enjoying here at the Marriott while we do not  
6 have a contract. We get no six and seven day overtime. I  
7 personally have worked just this past week nine days in a  
8 row, where the Marriott has been able to manipulate the  
9 schedule where they can work us 10, 11 days in a row,  
10 especially by cutting shifts, hours on shifts, without one  
11 single minute of overtime. We do not have regular eight-hour  
12 shifts for our storing departments, which are very important  
13 people in this hotel. They are the behind-the-scenes people  
14 that actually break down and set up all the big huge banquets  
15 down here as far as your meetings and also all the dishes  
16 that are used during the big banquets at which you can have  
17 3, 4, 5,000 people in one night.

18 What happens is that they are forced to do eight  
19 hours' work in six- and seven-hour shifts, which we find very  
20 unfair and very unjust to them, creating a major problem when  
21 it comes to work load.

22 There are also no seniority here. I've been here

1 for 10 years. There is nothing preventing me from losing  
2 days in the week to someone maybe that has come in for the  
3 last 30 days. There is just no protection at all without a  
4 contract. But that's only the tip of the iceberg.

5           What I would like to do now is give you a little  
6 history of what we have had to go through here at the  
7 Marriott. In 1980, the Marriott pledged the community and  
8 the redevelopment agency that if it was granted a site to  
9 build this big hotel, that they would give the union access  
10 to its workers as soon as it opened the doors. Well, nine  
11 years later after the hotel was built, 1989, when they opened  
12 the doors in October, they reneged on their verbal promise,  
13 not only to the community, but to the city of San Francisco  
14 and the workers here, and it denied union access to its  
15 workers.

16           The union then went to the courts to take Marriott  
17 to court so that we could achieve access through the court  
18 system. After eight long years in the court system, the  
19 Marriott finally settled out of court with us, excuse me,  
20 with themselves, and we were given the opportunity to have a  
21 card check agreement. In less than a month, in August of  
22 1996, an overwhelming majority of our employees here signed



1 union check cards demanding that we be represented by the  
2 union in contract negotiations.

3 We have had over 120 negotiating sessions in the  
4 four years since. We have had over 200 rallies in front of  
5 this hotel. I have been arrested twice myself outside of  
6 this hotel along with various several other members of the  
7 committee of the organizing and the negotiating committee.

8 The legal behavior of the Marriott has been  
9 constant since our campaign, but I'll give you a couple of  
10 the highlights. Maybe the most crucial violations I see,  
11 there were over 80 Marriott workers that went down to  
12 National Labor Relations Board to give their sworn statements  
13 regarding over 80 violations of the National Labor Relations  
14 Act. For 16 months, starting in June of 1977, employees  
15 other than bargaining union members were given lower poor  
16 payments, to \$10 a month for medical benefits. They also  
17 were given lower required hourly requirements, which went  
18 from 30.2 to qualify for eligibility for medical benefits to  
19 16 hours per week. In the bargaining, union members did not  
20 enjoy that for 16 months. For 16 months, while other audit  
21 union members were getting lower poor payment that would  
22 qualify a lot easier, workers inside the union still had up

1 to \$90 a month co-payments for the families. And still had  
2 to work at least 30.2 hours a week in order to qualify for  
3 medical benefits.

4           They also had mandatory meetings here with our  
5 employees trying to persuade them to create a sense of unity  
6 within the inside of the hotel. They verbally suggested that  
7 we would not enjoy any improvements to our working  
8 conditions, any further benefits, until the union was out of  
9 here.

10           I'd like to say that I've been born and raised in  
11 San Francisco. I'm a dual citizen of Mexico and San  
12 Francisco. I believe in our justice system. I believe in our  
13 legal system. I'll be the first to say that everybody is  
14 innocent until proven guilty. But I will be remiss to say if  
15 I didn't tell you that in my heart, I have been a witness to  
16 these various violations. Day after day, I have workers who  
17 don't have the command of the English language, who don't  
18 know their legal rights coming up to me, "Ramone, can you  
19 help me? Can you talk to my supervisor? Can you come  
20 translate for me? I am being watched. I am being followed  
21 around. I'm given bad work assignments. I'm getting my  
22 hours cut and how come the people that are the favorites

1 here, how come nothing happens to them?"

2 Sometimes I feel hopeless because they've even  
3 denied the workers the option of having someone like me come  
4 in and translate for them because I do speak Spanish as a  
5 second language.

6 The Marriott has not only dismissed the community,  
7 not only dismissed its workers, but it has continued to  
8 exploit its guests. I think that the Marriott sincerely  
9 believes that the guests don't care about the people that are  
10 servicing them when they come into this hotel. I think they  
11 don't understand that the overwhelming majority of people in  
12 this country, doesn't matter if they're management or  
13 employees or whatever, know right from wrong. And I think  
14 they seem to think that the customers don't know right from  
15 wrong. So again, I would like to thank you for your support.  
16

17 I know in the future that if we don't have a  
18 contract, you will not return to this hotel. You don't know  
19 to what end that gives us even more hope than we have now.  
20 We know that it is not an "if" situation. It's a win  
21 situation. And with prospective clients like you, who will  
22 tell the Marriott to their face that "Yes, we as guests do

1     care about your workers. We as clients do care about how you  
2     treat your workers here." We know that we will prevail in  
3     the long run, and thanks again for your patience.

4             CHAIR EAKELEY: Well, thank you. Good luck in your  
5     struggle. Don't lose faith in the legal system or justice in  
6     America, but be patient.

7             MR. GAVARRA: I will never lose faith in people.  
8     Thank you.

9             CHAIR EAKELEY: Is there any other public comment?  
10    Hearing none, is there a motion to adjourn?

11            MS. FAIRBANKS-WILLIAMS: So moved.

12            CHAIR EAKELEY: Is there a second?

13            MS. MERCADO: Second.

14            CHAIR EAKELEY: That was close. All those in  
15    favor?

16            (Vote taken.)

17            All those opposed?

18            (Vote taken.)

19            We are now adjourned. Nancy, thank you very much  
20    for hanging in there with us. Feel much better.

21            MS. HARDEN ROGERS: Thank you all very, very much.

22            CHAIR EAKELEY: And we look forward to seeing you

1 the next time.

2 MS. HARDEN ROGERS: Okay.

3 (Whereupon, at 4:35 p.m., the meeting was  
4 adjourned.)

5 \* \* \* \* \*